

*A. Turkwood*

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THE

# CREDIT VALLEY RAILWAY

## APPLICATION,

### FOR RIGHT OF WAY AND CROSSINGS

AT THE

### CITY OF TORONTO,

BEFORE THE RAILWAY COMMITTEE OF THE PRIVY COUNCIL.

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Ottawa, Thursday, June 19th, 1879.

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REPORTED BY

A. & GEO. C. HOLLAND,

SENATE REPORTERS

OTTAWA.

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PRINTED BY C. W. MITCHELL, "FREE PRESS" OFFICE, ELGIN STREET.

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# RAILWAY DELEGATION.

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## The Credit Valley Railway Application before the Railway Committee of the Privy Council.

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Ottawa, Thursday, June 19th.

The application of the Credit Valley Railway Co. for right of way over the Ordnance Land into the City of Toronto, and for crossing other lines was heard before the Railway Committee of the Privy Council, to-day in the office of the Minister of Public Works.

The following representatives of the various interests concerned were present :—

TORONTO CITY—Mayor Beaty and F. Shanly, City Engineer.

TORONTO BOARD OF TRADE AND CORN EXCHANGE—R. W. Elliott, Mr. Ferguson, Q. C.

C. V. R. Co.—Hon. R. M. Wells, Hon. Wm. Macdougall, M. P., J. E. Macdougall, Robert Hay, M. P., W. D. Mathews, Mr. Bailey, Chief Engineer; Mr. Ross, Superintendent of Construction.

G. T. R. Co.—E. P. Hannaford, W. Cassels.

N. R. Co.—F. W. Cumberland, D'Arcy Boulton, Hector Cameron, M. P.

G. W. R. Co.—Joseph Hobson, C. Stiff.

T. G. & B. R. Co.—Mr. Wragge, W. H. Beatty, N. Dickey.

The following members of the Privy Council were present :—

Sir John A. Macdonald, Sir Charles Tupper, Hon. Mr. Aikins, and Hon. J. H. Pope, Minister of Agriculture.

Sir CHARLES TUPPER—I suppose the Credit Valley Railway Co. will state their case first.

Mr. CASSELS—The Credit Valley Railway Company have got as far as Queen street with their track. What they have applied to the Railway Committee for is to be allowed to intersect the Grand Trunk Railway, the Northern Railway and, I think, the Toronto, Grey and Bruce and Great Western Railways, east of Queen street. They make the application under the Railway Act, which requires the sanction of the Railway Committee of the Privy Council in case the Companies cannot agree upon the point of intersection, but I assume that the representatives of the Credit Valley Railway do not intend to argue that question when they are not within half a mile of the point of intersection, and when that point cannot be known. Until they construct their road to the crossing place, they cannot discuss the question here.

Hon. R. M. WELLS—I think it would be quite convenient that we should first take up the question, as to the discretion of the Crown, to grant right of way from Queen Street down to Brock Street.

Mr. CAMERON—Questions of law are involved in that, which the Minister of the Interior may not care to determine. The Railway Committee has no kind of jurisdiction over the question as to how this railway is to get from Queen Street down to Brock Street

Hon. Mr. MACDOUGALL—Mr. Wells is the solicitor for the Credit Valley Railway Company, and is, of course, more familiar with the details which may come up in the discussion, but he has requested me to state generally their position, and what they are claiming from the Government. We are relieved of a technical difficulty by the presence of the Minister of the Interior, who appears to be the authority to whom application must first be made, with reference to the right of this railway to pass over the ordnance property, from Queen Street to Bathurst Street.

Sir JOHN MACDONALD—Bathurst street is the extreme limit of the Ordnance Land?

Hon. Mr. MACDOUGALL—No. Brock Street is the eastern limit. The first question which we have to raise is as to the authority, power and, we will add, the duty of the Government through the proper Department to hear our application for permission to lay our track along what we hold is still public property down to Brock Street. We are now at Queen Street with our line, and waiting for the privilege to come down with our line over this ordnance property. It appears that the Northern Railway Company claims the exclusive right to this property.



Mr. CASSELS—I wish it to be understood at the outset that we take objection to the jurisdiction of the Railway Committee in this matter, because I propose to argue, and I think I can prove conclusively that this strip of land in question is not ordnance property at all.

Hon. Mr. MACDOUGALL—We say in the first place, that as a Railway Company we have the same rights as other Railway Companies, and ought to be treated in as liberal a spirit by the Government as other Railway Companies in any matter in which they have control. I need not say that the Credit Valley Railway, though not looked upon very favorably by rival lines, is very popular in the country. It has been largely aided by the City of Toronto and by nearly all the municipalities along its route. During the hard times it has not only obtained popular support but also pecuniary aid, and has been enabled to employ a large number of men in the work of construction. It has been built to Queen Street, and we are now waiting for permission to reach its proper terminus, the waters of the Bay in the City of Toronto. The origin of this enterprise has been the desire of the people to have a new and independent line passing through the western country, from the City of Toronto—a railway which would be under no contract or obligation and which would enter into no pooling arrangement with other companies. The people have aided the Credit Valley Company on condition that it shall build an independent line to the City of Toronto. The City itself has granted a bonus of \$35 1,000 upon that condition, and the officers of the Credit Valley Railway feel that they would be breaking faith with those who have contributed so liberally towards the construction of the road if they allowed anything to prevent them making the water front of the City of Toronto its terminus. This has been the subject of negotiation between the parties whose rights are in conflict. They have admitted that we ought to be permitted to get in to the City in some way, but they wish to impose conditions. The Northern Railway, I may say by way of illustration, wish to impose the condition that if they allow us to come down on their track we should agree never hereafter to ask the privilege to cross what they call their station ground. We say that we have no right to bind in any way those who may succeed us. We ask for the privilege of coming along this line. We say, "If we take your property we are willing to pay for it under the ordinary conditions." When we come to the Grand Trunk they profess to be very friendly. They say that they wish us to reach their station and to get to our water lots, but they say we must enter into conditions. They say that we must agree that we shall not interfere with their traffic, that we shall not compete with them at points east, and in a general way desire to put us under obligations and conditions as to the mode in which we shall carry on our traffic. We say that we are not able to submit to any such conditions; that ours is to be an independent line, and we cannot have our hands tied. We say that we cannot stipulate that we shall send our freight by water under certain conditions or shall not send it to points where we would compete with them. We refuse to be bound by anything of the sort which would destroy our charter in the eyes of those who aided the road. We are driven to come to the Government to get the privilege of reaching our terminus. We say between Queen Street and Bathurst Street you have complete control over the land. In the first place, the Northern Railway took up this strip of land over the Ordnance property for a single track. There has been some correspondence on the subject which we have had printed, with other documents bearing on the subject, in pamphlet form, which we thought would be convenient for the members of the Government to have before them in the event of the point being raised. We say that this is still Ordnance property—that the right which the Northern Railway has to that 100 feet is simply the right of occupa-

tion. It is almost a mere squatter's right. They have never paid for this land and, consequently, they are simply there as squatters. We do not come here to contend that they have no right to be there. We do not wish to disturb them. They have allowed the Grand Trunk Railway Company, to come in upon the 100 feet they have taken by some arrangement, assuming they had the right to do so. The Grand Trunk Railway originally entered the City by the lake shore. That route has been abandoned; I think the Toronto Grey & Bruce, occupies it now. The Northern Railway Company, contend that they alone have a right to the 100 feet strip of land, and when the Grand Trunk Railway Company wished to occupy more of it the other day, the Northern Railway Company brought them into the Court of Chancery, and I believe it was held by that Court that the Northern Railway Company showed no title.

Mr. BOULTON—My learned friend is quite mistaken.

Mr. CASSELS—We proved an agreement in 1860 by which we gave valuable rights in exchange for the land which you say we have no right to.

Hon. Mr. MACDOUGALL—I am quoting from the decree itself—they failed to establish that they had a title to the property in question.

Mr. CASSELS—It was proved that instead of being trespassers they were in possession of the land by virtue of an agreement with the Northern Railway.

Hon. Mr. MACDOUGALL—The decree was that they had no title to the land. I simply allude to that to show the tenure or title which the Northern Railway Company appears to have had, which we say was simply taking up the land and using it from that day to this without having any further title. Now, they only require to occupy, according to their plan filed, about sixty-six feet. That appears to be all that they asked for originally. They fenced in 100 feet. They originally had only one track, and the plan they filed showed but one. We do not contend that they would not require a double track some time, but we say that 100 feet will accommodate seven tracks of railway, giving space for cars to pass without collision. The Grand Trunk Railway Company are putting down another track and the Northern Railway Company are doing the same, and they are spreading their tracks over the space in such a way as to render it difficult for another line to be run there. We have surveyed the land and marked sufficient space for the Credit Valley Railway south of their lines, so that we can all be accommodated. We do not wish to interfere with them; we do not ask the Government to aid us to incommode either of those companies, but we ask the right to come over property the fee of which is still in the Crown. I separate that question from the question of crossings, because the payment of the \$350,000 bonus granted by the City of Toronto is subject to the condition that the road shall be built to Bathurst Street as an independent line. The money is lying there, and we want it to pay the men who are engaged in constructing the road. I mention this to urge the speedy decision of the Government on this point separate from any other, inasmuch as some of the leading members of the Government are to leave the country very soon, and it will be embarrassing if this question is not determined at once so far as the line to Bathurst Street is concerned. We contend that there ought to be no difficulty in the case if the title to the land is still in the Crown, as we contend that it is. We ask for a license of occupation, and we are willing to pay a reasonable amount for it. We say that the Government

can grant us that without interfering with other rights, real or presumed. That is one point. Now, as to another point of the question: The Northern Railway Company got into difficulties, as we all know, and the Government, by Act of Parliament, took entire possession of all their property and held it for a certain time. A reconstruction of the parties controlling the company took place, and the property was transferred to this new or reconstructed company with all the rights and privileges which belonged to the company previously, but with a special reservation. In the Act of 23 Victoria reconveying the Northern Railway with all its rights and privileges to the new company there is this important condition, in the interest of the public, I presume:

"The Governor-in-Council reserves the complete control and direction of the station and other grounds in the City of Toronto occupied by the said company, as well as of the alignment and disposition of the track of the said railway leading into and within the said city, with a view of completing such arrangements as may be deemed expedient by the Government with other provincial railways terminating in the said city."

The City of Toronto extends beyond Queen Street; therefore, all this property is in the city. This clause was embodied in the Act, and is a clause from an Order-in-Council which recites a great many conditions, and this reservation is made in that Order-in-Council and in the Statute passed in 1859.

Sir JOHN MACDONALD—Did it apply only to railways then in existence?

Hon. Mr. MACDOUGALL—That might be contended, but I think that the other view is the correct one. First, because it was never intended to give any one or two railways the power to block the way against all future railways. We had very large hopes in those days in regard to railway communication with the City of Toronto and I contend that the larger construction must be put upon that clause. In the interests of the trade of the country the Government retained in its hands, in parting with the property of the Northern Railway, the control of the land in question and holds it to this day. In the licenses of occupation and the various Orders in Council passed from time to time, there seem to have been an opinion and wish in the minds of the Government, in all these transactions, to reserve control over those competing railways which it was then foreseen would come into the City of Toronto. In the license of occupation given to the City of Toronto for the purpose of building the Esplanade and in other licenses of occupation provision is made for the control of the Government in the future with reference to railways. Even the City of Toronto itself did not obtain absolute dominion over this property. If there were any doubt that the Government, in these matters, preserved control we would on public grounds and under the general Railway Act have the means to invoke the interference of the Government to reach this terminus. If we have to pass over this land as private property, we can lay down our track upon it and pay them under arbitration. We contend that there is nothing in law to prevent the Government giving us a license of occupation to enable us to lay our track upon this 100 feet strip alongside the track of the Northern Railway as far as Bathurst Street. We say that there is sufficient room for us all, and that seven tracks can be accommodated. We only require a single line at present, but still we make provision for a double track, and that would be only six tracks, while there is room for seven. We ask for such an alignment as will enable us to reach this point.



Sir JOHN MACDONALD—As far as the ordinance land is concerned, does the question of crossing arise at all?

Hon. Mr. MACDOUGALL—We are asking the interference of the Railway Committee of the Privy Council for two crossings.

Mr. WRAGGE—There are eight crossings.

Hon. Mr. MACDOUGALL—As to the line east of Bathurst Street, we find it necessary, in order to reach our depot or water terminus, to cross certain branches of the Grand Trunk Railway and I suppose the Great Western. We ask for the necessary authority to cross those lines, of course under the direction of engineers or whatever mode is the proper one. In laying down the line, we have made as little disturbance of the existing lines as possible. I do not know that it is necessary to argue any point in the case until we hear the objections that may be raised. We have prepared a statement of our case, which has been published. We regarded this as a matter of public importance, and not wishing to do anything which could not be defended on public as well as on legal grounds, we have taken the people into our confidence, and published in the Toronto journals, the case of the Credit Valley Railway, citing shortly the different acts and transactions bearing upon it. I have read it over this morning again, and I do not see that very much is to be added. I know that the members of the Government do not care to hear long arguments on points which do not necessarily arise.

Mr. CASSELS—Before going into the case, there is one point I wish to put before the Committee both on behalf of the Grand Trunk Railway and on behalf of the Northern. I suppose that anybody who has read the papers for the last fortnight, will see that they have been deluged with correspondence from the Credit Valley Railway Company, and that after application had been made to this Court (because we look upon this Committee as a Court,) there have been a series of letters and resolutions gotten up, and the newspapers have been filled with them. It may be a matter of remark, that neither the Northern nor the Grand Trunk Railway have thought fit to answer those attacks. We have not done so, because we thought that this Committee should be considered as a Court of law, and that it was due to such a tribunal that no remarks should be made in the press to influence public opinion on the subject, and, besides, public opinion has nothing to do with the decision of the question at all. This is why we did not answer those letters, and not because we did not think the statements they contained were utterly without foundation.

It is said here by Mr. Macdougall that the Credit Valley Railway Company want an independent line from Queen Street to the water front, that they will not take favors from any one or be hampered by conditions, and that they come here asking the Government to give their own property and to authorize them to force their way through. To show that the Grand Trunk and the Northern were actuated by no hostility towards the Credit Valley Railway and that we have offered to help them in every possible way, I ask liberty to refer to two or three letters from Mr. Laidlaw, which seem to completely refute the statements in the correspondence in the papers, and to Mr. Hickson's replies. There is a long correspondence, but I have merely noted one or two letters. On the 4th of March last Mr. Laidlaw writes:

(PRIVATE.)

CREDIT VALLEY RAILWAY,

President's Office,

Toronto, March 4, 1879.

MY DEAR SIR,—

I have received and carefully read your letter of the 1st March.

We want an independent line to Bathurst Street and access to the Union Station on reasonable terms, and facilities for the freighting business on our water lots between the Yacht Club and the Water Works. What would be the rental, and to whom payable?

We are willing to pay fairly for the use of stations, tracks and other property.

We shall not consent to the tariffs of our line being in any way hampered by the Esplanade arrangements.

If you think, as you seemed to do when we last met, that no impediment in the way of the independence of our tariffs would be proposed, I would like to have a plan of your scheme from your Chief Engineer, with an estimate of costs, rents, &c.

Yours faithfully,

(Signed)

G. LAIDLAW,

President.

Then Mr. Hickson writes making another offer, and on the 10th of March Mr. Laidlaw writes:

(PRIVATE.)

CREDIT VALLEY RAILWAY,

President's Office,

Toronto, March 10th, 1879.

MY DEAR SIR —

I am most anxious for the use of the Union Station and for such Grand Trunk facilities, by way of elevating, storing, &c., as it is possible for our company to have, and to pay therefor a reasonable remuneration.

Mr. Hickson has always met me in a most kind and friendly spirit, and I am sure that no feeling he may have with regard to myself personally, or *vice versa*, can affect our negotiations unfavorably.

If his views of what is due to his great company are reconcilable with what I think essential to the interests of our little affair, I hope we shall come to terms advantageous to both companies.

Yours faithfully,

(Signed)

G. LAIDLAW.

JOHN BELL, Q.C.,

Belleville.

On April 1st, Mr. Laidlaw writes :

(PRIVATE.)

CREDIT VALLEY RAILWAY,

PRESIDENT'S OFFICE,

TORONTO, APRIL 1st 1879.

MY DEAR MR. HICKSON,—

I received your telegram of this date to which I replied on receipt.

Perhaps you may not understand that I am personally quite unacquainted with the technical business of railway management and engineering, and that I profess no knowledge of any moment of the actual working of railways or such abstruse questions as relate to crossings, &c., such as may exist on the Esplanade.

I am solicitous to come to terms : to get the use of your station : if needs be of your elevator, and at all events to have free access to our own water lot property. Independent r./w. to Bathurst Street indispensable.

If you will kindly propose a plan stating the rents, method of payment and all costs, &c., &c., in relation to the matter we will immediately hold a "Jury" your advisers and submit your proposition.

Yours faithfully,

(Signed) G. LAIDLAW.

JOSEPH HICKSON, Esq.,

General Manager Grand Trunk Railway Co.

Montreal.

One letter refers to Mr. Cumberland's views, and asks Mr. Laidlaw, to meet Mr. Cumberland, and see whether their views would coincide on the point. From subsequent correspondence it seems that an arrangement was almost effected whereby the Credit Valley Railroad could get to Bathurst Street. From that point to the Union Station they accept the terms of the Grand Trunk Railway. Everything runs smoothly; letters are written by Mr. Laidlaw, in the most friendly spirit, and he thanks the Grand Trunk and the Northern for their kindness. A letter is written by Mr. Cumberland, in the middle of May, and the next thing we know is that an appointment is taken out here, and there is nothing further except a letter from Mr. Hickson in the middle of June, making certain propositions and an answer from Mr. Laidlaw, saying, "We will not treat with you at all," but, even down to that time, friendly relations were maintained. That pamphlet is put in the hands of the Committee as being a synopsis of the proceedings which took place, and the title of the lands held by the Northern and Grand Trunk Railway Companies. That pamphlet is prepared from my papers, for, even after this appointment is taken up, Mr. Laidlaw, representing the Credit Valley Railway Company, states that the Grand Trunk Railway Company is friendly with them, and borrows from my clerk, in my absence, all the papers relating to this matter. The pamphlet and the certificate of counsel are the product of that. It so turns out, as I will show, that a lot of material papers, relating to title deeds, were omitted, and, therefore, that this pamphlet, in that respect, is utterly unreliable. Now, we come to this: they are here claiming that they have a legal right to take that land from us.

They ask the Government to give them that right. We take the ground first, that no such right can be granted by the Crown, and, secondly, that there is vacant land south of the 100 feet strip ample to let them reach Bathurst Street. But, instead of taking that land, they raise this cloud of smoke with their pamphlet and correspondence, and, under cover of it, seek to rob us of our lands. If they have a right, under the Railway Act, to take our lands, that is a matter for the courts to deal with. There is no reason shown for their going outside of their legal remedy.

It becomes necessary now to show that the Grand Trunk and the Northern have an absolute right to that strip of 100 feet. In the first place, their charter authorized them to take 120 feet. These lands are vested by 7 Vic., Cap. 43 in the principal officers of Her Majesty's ordnance. That Act authorizes any two of the officers of the board to treat, sell, negotiate or take any other steps they choose with regard to those lands. The Northern Railway Incorporation Act was passed in 1849. It authorized them to cross Government lands, or the lands of any other corporations, with a view to building their road. In 1851 the Northern Railway Company filed their map, claiming, not 120 feet but 100 feet of Ordnance land. In addition to this they took this land on which their depot is built, and on which they are called "squatters." Mr. Sandford Fleming prepared a map of the Ordnance Lands in 1851, for the Ordnance Department, and this 100 feet is laid down as reserved out of those lands as well as 34 acres not now in question east of Bathurst Street. The pamphlet states that from then to the present time the Ordnance Board never recognized that right. That statement is entirely without foundation also, because I have here orders from the Ordnance authorities sanctioning that reservation.

Sir JOHN MACDONALD—From the principal officers?

Mr. CASSELS—Yes. I have documents showing that they had looked into the title of the lands in question, and showing it to be a good title. I propose to refer to letters of the Master General of Ordnance, dated the 9th of January, and the 7th of February, 1852, after the line had been located and fenced by the Northern Railway, and to the report of the Inspector General of Fortifications to show that the company cannot be said to have acted illegally in entering upon the Ordnance reserve, and that the Department can only demand of the company such a sum as may be considered fair value for the land taken, and if the price should be disputed, that the value be fixed by arbitration. The documents to which I have referred are as follow:—

First—There is the application from the Hon. H. J. Boulton, on behalf of the Ontario Simcoe and Huron Railroad, dated 27th October, 1851, to "The Honorable Board of Respective Officers, Montreal," asking "certain portions of the Military Reserve in Toronto, which the company required as well for a portion of this line as for convenient sites for stations, workshops and other appurtenances required for so important a work."

Then appears on the original application the following memo:

"MINUTE, HEAD-QUARTERS, MONTREAL, 28th October, 1851.

"Refer to the commanding Royal Engineer,

"M. W. B.

P. M.

"O. S. K.

O. S. K.

ag.

Also :

" 14-11-51. Submit to the Honorable Board with reference to the C. R. E. minute underneath and acquaint Mr. Boulton the matter has been sent home for the decision of the Board.

" B. L. L.,

M. W. B.,

" Capt. and Adj. R. E.

A. S. K."

The minute referred to in the above memo is as follows :

" The Lieut.-General commanding has no military objection to the proposed measure, on the condition that the company pay the value of the buildings situated on the ground they required ; provide a proper officer of the Engineer Department, and build a new commissariat store near the Queen's wharf.

The extent of land demanded by the company is 34 acres.

(Signed),

F. N. WHINGATES,

Lieut.-Col., C. R. E.

" 14th November, 1851."

On the 15th November, 1851, a letter is written dated at the Office of Ordnance, Montreal :

[COPY.]

Ordnance, No. 116.

B.

OFFICE OF ORDNANCE,

MONTREAL, 15th November, 1851.

SIR,—

1.—We have the honor herewith to submit for the Master General and Honorable Board's consideration, an application we have received from the Honorable H. J. Boulton, President of the " Toronto, Simcoe and Lake Huron Union Railroad Company " praying for a grant of Ordnance Land at Toronto, for the purpose of that work, the Commanding Royal Engineer's report on the proposition, being also transmitted with a copy of the Act of Incorporation, establishing the company.

2.—In other applications for concessions of Ordnance Lands for railroad objects, it has heretofore been usual, where no military objections existed, to recommend to the Master General and Honorable Board, that the privilege of occupation should be conceded upon payment of a rent constituted at 6 per cent. upon the supposed value of the ground required for the works, subject of course, to any special restrictions which each particular case might render necessary, and in the present instance we would observe that the extent of land asked for is 34 acres, whilst its estimated value is £200 currency per acre, and the worth of the buildings to be removed is calculated to be £1,255 sterling.

3. As the decision however of the Home Authorities upon the proposition for resuming possession of the Toronto reserve, and rendering the whole of the land available for the location of Pensioners, has not yet been communicated to us by the Honorable Board, we abstain from offering any suggestion upon the present occasion, especially as Major Tulloch, whose letter of the 29th ultimo and our reply are enclosed, informs us that the before-mentioned arrangement is to be carried into effect without delay :—



And we therefore respectfully submit the application for the Master-General and the Board's instructions, and would beg to refer to the Commanding Royal Engineer's report and plan, which will be forwarded to the Inspector-General of Fortifications by the present Mail, for any further particulars which may be required.

We have, &c., &c.,

(Signed.)—THOS. DYNELY, BENJ'N. S. STEHELIN, THOS. O. STORCK, W. H. B., Col. C. R. A., Capt. & A. C. R. E., absent on duty, Dy. O. S.

G. BUTLER, ESQ., &c., &c., &c.

This application and the remarks of the Officers in Canada, received the consideration of the Master-General of Ordnance in England, and on the 2nd February, 1852, an order was made by the Board of Ordnance sanctioning the occupation of the 34 acres by the Railway. This Order is as follows:

COPY OF THE ORDER OF THE MASTER-GENERAL OF ORDNANCE IN RE: NORTHERN RAILWAY DEPOT GROUNDS, 9TH JAN'Y., 1852.—

It seems from these reports from the Inspector-General of Fortifications the Ordnance Storekeeper and the Ordnance Solicitor, there is no doubt that under the provisions of the 10th clause of the Act to incorporate the Ontario, Simcoe & Huron Railway Company, the Company cannot be considered to have acted illegally in entering the Reserve without the previous consent, and that the Department can only insist upon compensation in the manner prescribed by the Company, which will be to demand of the Company such a sum as may be considered the fair value of the land taken, and if refused to have the price fixed by the Chairman of the General Quarter Sessions, and the Justices as provided by the 17th Section of the Railway Act, allowing whatever sum may be so recovered to be paid into the Military Chest to the public credit, in which proposition the Master and Board request the acquiescence of the Secretary of State, and through His Lordship the Secretary of War.

Thereupon an order of the Board of Ordnance, dated 2nd of February 1852, was sent to the Company, transmitting a copy of the above letter and approving of the proceedings of the respective officers of Ordnance under which the Ontario, Simcoe and Huron Railway Company had taken possession of that portion of the Ordnance Reserve at Toronto which they required.

On the 5th December 1856, a letter is written as follows, signed by T. L. Gallway, Capt. C. C. R. Engineers and addressed to W. T. Coffin Esq, Ordnance Land Agent.

"SIR,—I am directed by the Court Royal Engineers in Canada, to inform you in reply to your letter of 3rd inst., that the several Railway Companies took possession of Ordnance Lands at Toronto, under the following terms:

"The Ontario Simcoe and Huron Co. took possession under authority of their charter, 12 Vic., Cap. 196, and the legality of the possession was recognized by the Ins. G. & 3rd. order of 2nd Feby., 1852, <sup>11</sup>/<sub>1148</sub> Copy herewith.

What they applied for was right of way from Queen Street: it includes the 100 feet strip and the depot ground. The Northern Railway Company have been accused of squatting there without right or title, and I have called attention to these documents to show how groundless that assertion was. In 1872 the Secretary of State investigated this same matter and he reported in this way:—

"In the case of the Ontario, Simcoe & Huron Railway Company, we have sufficient proof that in 1851 this company demanded from the Imperial Military Authorities 34 acres of land, value £200 per acre, and that the military authorities acceded to the demand."

Hon. Mr. AIKINS—Was that communicated to the Northern Railway Company?

Mr. CASSELS—Yes, but fortunately it did not get into the possession of the Credit Valley Railway Company. Of course that does not prove anything. It does not show more than I have shown from orders in council, plans and maps, and the evidence of Mr. Sandford Fleming.

Sir JOHN MACDONALD—Has no action been taken on that report of Col. Coffin's to the Secretary of State?

Mr. CASSELS—That report was made with regard to a claim for the purchase money. By the act of 1856 a portion of the ordnance lands was transferred to the Secretary of State for England and the balance to the Queen, represented by the Provincial Government, subject to all existing contracts and agreements. It was contended by Col. Coffin, representing the Crown, as against the Great Western, that the land which the Great Western had purchased, though sold before the act was passed vesting them in the Crown should be paid for to the representative of the Crown here. The Law Officers advised differently, that any purchase money on sales before that date belonged to the Ordnance Department in England.

Hon. Mr. AIKINS—Was that ever communicated officially to the Northern Railway Company?

Mr. CASSELS—I can not say.

Sir CHARLES TUPPER—Was it communicated officially to anybody?

Mr. CASSELS—I am not aware of that either. This has been furnished to me as one of the reports in the office.

Mr. BOULTON—They furnished us with some documents.

Mr. CASSELS—As to the title there never was any dispute about it until the Credit Valley Company stepped in and said that we had no right to the land. In 1851, the Northern Railway took possession of it; they continued in possession down to 1859, when, as my learned friend, Mr. Macdougall, says the Act was passed which vested the whole property in the Crown. Then, in 1860, the Act re-transferring it, was passed, and the Order-in-Council which re-transferred the property is set out in that Act. Mr. Macdougall has read that reservation as applying to all railways to be brought in to the city for the future. Your remark, sir, that it applied only to railways then in existence is beyond all question, the true reading of the clause.

Hon. Mr. MACDOUGALL—I think the Minister of the Interior expressed no opinion.

Sir JOHN MACDONALD—I merely asked a question.

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Mr. CASSELS—Then I misunderstood the remark, but, at all events, that is the true interpretation of it. In order to get at the meaning of the clause, it is necessary to consider what was taking place at that time. I have, in my hands here, correspondence commencing in 1855 and terminating in 1859, between the Railway Committee as then constituted, the Northern Railway, the Grand Trunk and the Great Western. That correspondence shows that it was the desire of the Crown, at that time, and also of the Grand Trunk, that the three railways should be brought in alongside of each other, and the correspondence and the reports are here which set out how it was proposed that the three roads should run in, and there are counter propositions by the Grand Trunk and Great Western which were subsequently, in 1860, settled by agreement. Looking at these facts, the language of the clause is perfectly plain—it relates only to railways then existing. In 1875, an act was passed declaring that the objects of the Order-in-Council have been fulfilled, and the order itself is repealed in so many words by the act of 1875—38 Vic. Cap. 65. On looking at the reasons for the repeal it will be found that there is at page 38 a recital of the fact that the objects of the order have been fulfilled. If that applied to future railways, it is repealed and there is an end of it. In 1859 what took place? The Northern Railway have a title to that land. They may not have a legal title, but they have an equitable title, and the legal title is held in trust for them. It is vested in the Crown, and in 1860 the Crown re-vests the whole of it in the Northern Railway. What higher title can you have? The equitable title is vested in the Crown in 1859, and in 1860 an act is passed which vests all the property in the Northern Railway.

Mayor BEATY—All the property that it had before.

Mr. CASSELS—Certainly, and what better title can you have? In 1860 the Grand Trunk Railway obtained right of way to extend from Bathurst Street, I think, to Peter Street, through the depot lands of the Northern Railway.

Sir JOHN MACDONALD—Is Peter street east of Brock Street?

Mr. CASSELS—Yes. They had to pay for that £7,500. In August of 1860 they entered into an agreement with the Northern Railway Co., by which they transferred the right they had from Bathurst to Brock Street to the Northern Railway Co., and that is confirmed by Act of Parliament in 1865. They got from the Northern in exchange the right to two tracks from Brock street running west to Queen street, over this ordnance property, and in addition the land lying between their track and the fence to the north, between Bathurst street and the Diamond Crossing, and the land lying between their track and the fence to the south, between the Diamond Crossing and Queen street. That was in 1860. If evidence is to be gone into, I have here the depositions of Walter Shanly, Frank Shanly, Mr. Brydges, and Sandford Fleming, who proved that this was the condition of affairs when this bill referred to was fyled. We built a switch, and the Northern Railway fyled a bill alleging that the land belonged to them, and asking the Court to restrain us from trespassing on their lands. We pleaded the agreement of 1860, and it was proved that the Grand Trunk were not trespassers. The decree was practically a non-suit, and the bill was dismissed. From 1860 to the present, the Grand Trunk have held this land, having paid about \$30,000 for it. In addition to that they have paid their proportion of the money expended in improving this 100 feet strip. Mr. Frank Shanly is here, and we have his evidence to show that he was paid \$60,000 for improving

that land from Queen to Brock street. This is the land which they wish to take from us without compensation. Coming back to the question of title, it appears that in 1836 the Ordnance Lands at Toronto were vested in the Crown, but this strip does not appear to be among the lands so transferred. That left the Northern in possession legally under the Ordnance Department. It so remained until the Confederation Act was passed. The contention of the Credit Valley Railway Company is this: "By the Confederation Act these lands passed to the Crown," but this land in question was not among the lands referred to in section 108, as having been transferred to the Dominion, because they had been sold to the Northern before that. I say, therefore, that the fee is not in the Crown in any shape or form, but if it is, it is in the Crown as bare trustee for the Northern and the Grand Trunk. My learned friends have based another argument on a report made by Sir Alexander Campbell, I think, when he was acting Commissioner of Crown Lands. It was in connection with a dispute between the city and the Northern Railway Company. You will see by that report that Mr. Campbell expressly points out, with regard to the lands now claimed by us, that the Northern had a title. It stated that the railway company took possession of the land in 1849, "with the consent of both parties; agreement lost."

Hon. Mr. WELLS—There was no agreement.

Mr. CASSELS—He states that the agreement was lost. He was only dealing with the land east of Bathurst street, that on which the Northern depot was built.

Sir JOHN MACDONALD—That is in the dispute between the City and the Company?

Mr. CASSELS—Yes. On reading Mr. Campbell's report, you will find that his attention was not called to the fact that an order was passed by the Ordnance Board sanctioning the occupation. The judgment proceeds upon this entirely—that although an application had been made to the Ordnance Board for liberty to take those lands, no sanction by the Ordnance Board had been shewn. It was upon this that he granted a license to the Corporation, and refused to hold that, with regard to the depot land, the Northern were entitled to it. But I say this: if these orders from the Ordnance Board, and these reports made by the Ordnance Officers, had been submitted to Mr. Campbell, the report would never have been made in that shape, and the reasoning in the report shows that conclusively on its face. Although they got a large award, I do not believe that the Northern will pay it, because, if they can satisfy the court that the title was in them, of course that report would fall to the ground.

Sir JOHN MACDONALD—That has no legal effect.

Mr. CASSELS—I know that, but I point it out because great stress is laid upon it. The basis of the decision is that no order was made by the Ordnance Board. If the title deeds had then been produced, the decision would have been different.

Sir JOHN MACDONALD—That was confirmed by Order-in-Council.

Mr. CASSELS—That may be. That Order-in-Council gave them the lands, reserving the rights of occupation of the Northern Railway Company. With regard to the

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position of the Grand Trunk Railway Company, we say that Mr. Hickson is willing, and he always has been willing, to treat with the Credit Valley Railway Company, in the fairest possible way. If Mr. Laidlaw is not willing to run from Bathurst street or Brock street to the Union Station, as he formerly was, let him make a proposal. That proposal would be entertained outside of this court, but the stand that we take here is this: that to this moment we have been on friendly terms with the Credit Valley Railway Company, that we have facilitated them in every way, and are willing, outside of this tribunal, to do so in the future. The Northern Railway have met them in the same friendly way, and aided them, to a great extent, because they are indebted to Mr. Cun-berland, who pointed out a line by which they could reach the city. But they have chosen to come here and we are forced to meet them on the legal position. We are not going to be taken by the throat and compelled to give up our lands. We are not going to be coerced into doing what we think we are not legally bound to do. I take this position that the Minister of the Interior has no jurisdiction over the matter at the present time; that even if he had, there are nice legal questions to be raised. There is no reason whatever why, under the Act of last session or the Consolidated Statutes of 1866 and the Act of 1868, the Credit Valley Railway Company should not file their plans, give notice that they will take those lands and take possession of them by means of arbitration. They could have paid for the right of way for half the amount they have paid for counsel and newspaper articles. That right is open to them. We cannot debar them from it. If there is land to the south for railway purposes, let them take it. The Grand Trunk are crowded. Even now they have not space enough. The Northern are in the same way.

Sir JOHN MACDONALD—You say they could have got the land for less than the counsel fees; how could that be if the space is already filled?

Mr. CASSELS—I mean the land to the south; there is plenty of land there. They have but one motive for coming here. They conceive that the title to the land is in the Crown, and they suppose that they can get a portion of it without paying for it. If they had been disabused of that idea, they would have taken the land to the south and built in their line to Bathurst street long before this. Mr. Laidlaw, in one of his letters, claims sympathy for the Credit Valley Railway on the ground that it is a small affair compared with the Grand Trunk, but surely our interests ought to be protected. Surely the Grand Trunk and the Northern have done as much for Toronto as the Credit Valley. If there is space to the south of their land, why should their communications be cut off in four or five places? Why should the Credit Valley Railway be given greater facilities than other railways receive? There is no reason for it, and I ask in all confidence that this matter be left to the courts to deal with. At all events, if you deal with it, I ask that our rights be not interfered with.

Hon. Mr. WELLS—How could we get from Bathurst Street into the city?

Mr. CASSELS—I will come to that presently. From Bathurst Street east they were willing to use the Grand Trunk Railway. They say now, "We are not going to bind posterity." Whoever heard of a case like this in which posterity was not bound in some way? From the 5th of April down to Saturday last no action was taken. On Saturday Mr. Hickson, who had to leave for New York on very important business connected with the Grand Trunk



Railway, was served with a copy of the plan and of the notice. That notice does not ask to cross the Grand Trunk at all, but last Tuesday a new notice was served upon him, returnable to-day, and he is asked to come here on two days' notice and expected to be able to prove to the Railway Committee on that short notice that this line is going to hurt his track. I say it is impossible to do it. With regard to Mr. Walter Shanly and the other witnesses, I contend that we should have more time before their evidence can be gone into. I submit, with all deference, that this should not be forced upon us. I say that it is not reasonable that we should be prepared on such short notice and in the absence of Mr. Hickson. I would also call attention to the fact that they are applying under an Act which has been repealed. They serve us with a notice that the application shall be made under the Railway Act of 1868. In the first place, that Act, by the express terms of it, does not apply to the Grand Trunk, but to railways constructed after it. The Act of 1868 is only made applicable to the Intercolonial and to railways constructed after that date.

Hon. Mr. WELLS—It is a re-enactment.

Mr. CASSELS—The Act of last session, copied from the Act of 1868, does not apply to the Grand Trunk Railway, but to future railways. We do not wish to thwart any scheme that the Credit Valley Railway Company may wish to carry out, but when they force us to come here on two days' notice it is practically asking for a decision of the matter without giving the Grand Trunk or Great Western a hearing, and I am entitled to say that their notice is defective. The Act of 1868 is repealed, and their notice is to apply under that Act.

Hon. Mr. MACDOUGALL—That is a technicality which this Court is not likely to take any notice of.

Mr. CASSELS—If we are to be forced to consider this question of crossings on such short notice, we must be judged without having a say in the matter. With regard to the first point, as to the title of the lands, we are prepared, because that is a question which can be worked up in Toronto, but the other is an engineering matter.

Hon. Mr. MACDOUGALL—You received a copy of this plan?

Mr. CASSELS—Yes, on Monday. It was mailed to Montreal on Saturday, so far as the Northern are concerned, I am advised that they only got the plan on Tuesday, but the notice serving the plan on Monday, did not ask to cross the Grand Trunk at all. They rectified that and the regular notice was received yesterday or the day before.

Sir CHARLES TUPPER—Has not the question of crossing the Grand Trunk Railway by the Credit Valley Railway been the subject of negotiation between Mr. Laidlaw and Mr. Hickson?

Mr. CASSELS—No.

Sir CHARLES TUPPER—I understood that they had discussed it in a friendly manner.

Mr. CASSELS—Mr. Laidlaw, down to the day he took these proceedings, was satisfied to take a portion of this strip as far as Bathurst street, and from that he was going

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to run on the Grand Trunk track to the Union Station. That was the subject of correspondence, and that is what they seem to have got almost at one about. I think that this could be arranged if the management were here, because down to May at all events Mr. Lalshaw was perfectly satisfied with it. He proposes to cross our track, I am told, in about twenty places.

Sir CHARLES TUPPER—And go in by an independent line?

Mr. CASSELS—Yes, and of that we never had notice until Wednesday.

Sir CHARLES TUPPER—Have you a plan of that now?

Mr. CASSELS—We have.

At one o'clock the Committee rose for recess.

### AFTER RECESS.

The Committee met at 2 o'clock.

Sir CHARLES TUPPER—We should like to hear from the Great Western.

Mr. STIFF—We want more time. The corrected plan was only received in Hamilton on Monday last. I have only seen it a short time ago. So far as our Company is concerned, the approach to Toronto could be made without crossing the track of the Great Western at all. My principal object in rising now is to say that it is absolutely necessary that more time should be given to enable us to discuss the subject more intelligibly. The traffic of the Great Western has been seriously interfered with for want of accommodation along the Esplanade to Queen's Wharf, and the approach of the Credit Valley Railway will add another element to the difficulty. It was illustrated very forcibly last September, at the time of the Provincial Exhibition, when we endeavored to carry a large number of passengers, and utterly failed for want of space. It is impossible for our manager to be here.

Sir JOHN MACDONALD—When did you get your notice and the plan?

Mr. STIFF—The first one was received ten days ago, and recently a corrected one was sent which we only received on Monday or Tuesday. I only saw it on Tuesday. It involved an entire change of track which it would be impossible to carry out. I think the crossing of the Great Western at Queen's Wharf can be avoided altogether.

Mr. W. H. BEATTY—So far as the Toronto, Grey & Bruce is concerned, I do not think that the Privy Council have any jurisdiction over us. We are a local road, and the Credit Valley is also a local road. With regard to the plans, we were notified on Tuesday last, at 2 p.m., not to come here, and at 4 p.m., new plans and a notice were sent in. The Toronto, Grey & Bruce Railway is using part of the Grand Trunk track as a leased line. If the Credit Valley Railway can come in by an independent line, we want the same right, and we give notice that we will demand it.

Sir JOHN MACDONALD—You had better join horses with the Credit Valley Railway.

Mr. STIFF—We also want a separate line into Toronto. We run from Peter street on a switch of the Grand Trunk Railway.

Sir CHARLES TUPPER—What has the city to say?

Mayor BEATY—We stand and look on, with this interest, that we want the Credit Valley Railway to come in, as we would desire to have all the railways that could possibly be brought into the city. We have given a bonus of \$350,000, to the Credit Valley Railway, with a view of having an independent line running into the city.

Sir JOHN MACDONALD—You get it only as far as Bathurst street?

Mayor BEATY—That is all. The by-law on which the bonus was voted was given distinctly with that view. Although it is out of our hands, and in the hands of trustees, they cannot get the money unless the city waives its right, which it will not do. The real object is to get an independent line. We claim, of course, a right to the value of these lands, under the license of occupation to the city.

Sir JOHN MACDONALD—That would give you a title only to the value of the fee.

Mayor BEATY—The patent was to follow. If they take the land, we are entitled to the value. The real interest of the city is this: we are very anxious to have this road opened. If entrance is allowed to Bathurst street, I understand that the road will be completed, so far as traffic is concerned, by September next. That will be in time for the fall trade.

Sir JOHN MACDONALD—Can you not reach Bathurst street by the southern line?

Mayor BEATY—The real point is that it should be an independent line. The idea has been, and the idea is, that if the Credit Valley Railway were dependent for any reason upon the Grand Trunk or Great Western, they might impose such rates and conditions as would deprive the city of the advantages which a competing line was expected to give. We have been led to believe that that is the real difficulty now—that conditions are proposed to the Credit Valley Railway which we are not willing to submit to.

Mr. CUMBERLAND—East of Bathurst street.

Mayor BEATY—I understood that they applied to the whole line—that the rates were to be the same as on the Grand Trunk or Great Western. The idea is to get such a management of the Credit Valley Railway that it would be independent, and could afford to compete with the Grand Trunk or Great Western. That was the basis on which the money was granted by Toronto and the other municipalities.

Mr. FERGUSON—I was a little surprised to hear Mr. Cassels make the assertion he did with regard to the title to this line. He drew the conclusion that the Government

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of Canada were not the owners of the land, but that the property was vested in the Secretary of State. The title, I think, is plainly in the Government of Canada, and it is only necessary to look at the few acts of Parliament, and the schedules to those acts to see this beyond all doubt. As you are well acquainted with the statutes bearing on the subject I shall merely refer to them. The Act 3 Vic., cap. 16, was passed in 1840. It was to authorise certain officers of Her Majesty to set apart certain lands for military purposes. It would appear that after that date large quantities of land were set apart. By the Act of 1843 these lands were vested in the principal officers of ordnance. They remained so vested until 19 Vic., cap. 45, was passed, revesting them in the Government of Canada.

Mr. CASSELS—Not all of them.

Mr. FERGUSON—The descriptions are contained in two schedules. The first refers to certain lots described, and all other lands not described in schedule two. The contention is that these lands now spoken of are in schedule two, and became the property of Her Majesty, for the uses of the Province. It will be remarked that the schedule to the Act of 1843 described the lands in question by the word "Toronto" alone. The schedule simply names the place where the property is situated. The second schedule shows the lands conveyed or transferred by the Crown to the then Province of Canada and among them the lands at Toronto, consisting of 502 acres, 2 rods and 1 pole, and another column describes the buildings; so that Toronto, not being mentioned at all in the first, and being mentioned in conjunction with 502½ acres of land in the second, and the buildings, some of which are still in existence, there is no doubt whatever that this land passed to and was the property of the old Province of Canada, unless the property in contention was not a part of that 502½ acres of land. As we find no description of land at Toronto in the other schedule, and as we find this large quantity of land opposite "Toronto" on the second schedule, it is difficult to assume that the property in question is not a part of the 502½ acres, and the burden is upon my learned friend (Mr. Cassels) to show that it is not. There is no reasonable doubt that it is, and there is no doubt, therefore, that the property is vested in Canada. The next question is the date when it became part of the property of Canada. We find that the 108 Section of the British North America Act transfers to the Dominion of Canada the properties mentioned in the third schedule of the act, and the words in the third schedule are:—"Property transferred by the Imperial Government and known as Ordnance Property." My learned friend made a remark that this property was not transferred. I say that the word "transferred" has reference to 19 Victoria. While they were vested in Ordnance they were vested in Her Majesty, in Her Imperial capacity. It will be seen by the recital in that Act 19 Vic., that her Majesty revoked the patents of certain of these officers and transferred their duties to the principal Secretary of State and that appears to be the reason why this act was passed vesting a portion of these lands in the Secretary of State and the rest in the Province of Canada. The recital shows how the lands are to be used, so that there is no doubt the lands belonged to the Province of Canada then. The 108 Section of the British North America Act and these schedules show beyond doubt, without invoking construction at all, that the title passed to the Dominion of Canada. The convention is that according to the terms of the act 19 Vic. Cap. 45, if there is an agreement or a lease which was made by the principal officers of Ordnance during their time, that should be respected.

Sir JOHN MACDONALD—Does that word "agreement" cover an agreement for sale.

Mr. FERGUSON—It is used as an independent word. I apprehend that all agreements or leases of this kind must be respected, but the contention is that there must be an agreement or sale made. We contend that nothing of the kind has been shown, that the most that has been shown is that the Northern Railway Company are not trespassers. The reports read by my learned friend, and referred to by him, from the Ordnance Officers, and presumed to come from the fountain head, do not constitute any agreement, sale or lease, or any of those things mentioned in this section of 19 Victoria, Cap. 45. My learned friend asserts that this land is the property of the Northern Railway Company, and that the Credit Valley Railway Company seek to take it away from them. Now, that is not the position of affairs. All that can be made of what has been shown is that the Northern Railway Company are not trespassers on this land. That they have right or title to it cannot be claimed. That being their position, they are simply not trespassers, and that being the only title they have, it cannot be contended that anything has been taken from them, or would be taken from them in the event of the success of the application of the Credit Valley Railway before this tribunal. It will be observed that Mr. Cassels, appearing for the Grand Trunk Railway, is now setting up the title of the Northern Railway Company. If attention is called to the evidence adduced in the Chancery suit by him and his client—

Mr. CASSELS—I do not propose to do that. I propose to bring our witnesses here as we did not finish our case there.

Mr. FERGUSON—The evidence given then by the man who is supposed to know most about the Grand Trunk Railway in that connection, was the contrary of that contention.

Sir JOHN MACDONALD—Who is that ?

Mr. FERGUSON—Mr. Hickson, who said the Northern Railway were supposed to have some right, and whatever right they had was by the agreement. It was not pretended then by the Grand Trunk Railway that the Northern Railway Company had a title at all ; on the contrary they said the Northern Railway had not, but being in possession by that kind of leave, simply avoiding prosecution as trespassers, whatever right they had was merely possessory in connection with the Grand Trunk Railway, so that I submit with all humility, but with high confidence, that on investigation of the matter the conclusion that I draw is the true conclusion, and the only conclusion to be drawn. That being so, if the Northern Railway Company have not a title, but are merely in that position, one can readily see why it is they object to have the matter dealt with by the Government who are the owners in fee, and who have all power. In regard to the particular mode of dealing with the matter of dividing this land amongst the railway companies, I do not pretend to be sufficiently familiar with the works upon the ground to offer an opinion. There are gentlemen present who are more familiar with all those railways, who can do much better in explaining what would be the best way of doing it ; but I stand fast on the position that the Northern Railway Company have no title to the property in question at all—it is entirely the property of the Crown—the Dominion of Canada.

Sir JOHN MACDONALD—What interest do you represent ?



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Mr. FERGUSON—The commercial interest of the City of Toronto—the Corn Exchange and Board of Trade. Their interest is to have this railway as an independent line coming into the city where they have their interests. Whether technically they would have a right to offer any contention before the Court or not is a question, but they are deeply interested in having an independent line coming into the city, that reaches so many parts of the country not touched by other railways.

Sir JOHN MACDONALD—Do I understand you to say that the contention goes this far only that the Northern Railway Company are not trespassers?

Mr. FERGUSON—I think they are not trespassers.

Sir JOHN MACDONALD—Then do you contend that the Government cannot by any act of theirs make them trespassers, or that the Government are bound to allow the Northern Railway Company to hold that land for all time without being trespassers?

Mr. FERGUSON—No. A man may not be a trespasser; he may be there with full leave and license, but that license may be revoked. I do not mean to say that they have any right beyond not being liable to be prosecuted for trespass committed until the license is revoked. Assuming the fullest authority of the Ordinance Department, they apply for a double track of thirty yards over a level piece of country where there are no cuts or fills, but to that application there is no response. Nothing more is done; even the proper plans are not filed. The Northern Railway Company goes in, takes possession, and as there was the response there is no trespass. They will not be responsible for an action of trespass, but the right which they get does not reach to any future time; it simply saves them from any action.

Hon. Mr. WELLS—There is one matter to which Mr. Cassels referred in his preliminary remarks, which I thought he should not have alluded to, I refer to the charge of improper conduct on the part of Mr. Laidlaw, in getting certain papers from Mr. Cassels' office. I do not think that he should have made any remark of the kind, inasmuch as all the circumstances have been fully explained to him.

Mr. CASSELS—So far as the solicitors are concerned we have not the slightest charge against them, because it was properly explained.

Hon. Mr. WELLS—I am not defending the conduct of the solicitors, but of Mr. Laidlaw. I can only say that he never went to Mr. Cassels' office.

Mr. CASSELS—He sent.

Hon. Mr. WELLS—No; he did not send. It was a matter between my partner, Mr. Gordon, and Mr. Cassels, and them alone.

Mr. CASSELS—My learned friend is not correct. The papers were obtained in my absence.

Hon. Mr. WELLS—Mr. Gordon, assuming that the Credit Valley and the Grand Trunk were on very friendly terms, went to Mr. Cassels' office, and obtained certain

papers which were published before he knew that there was any difficulty between the two companies. As soon as he ascertained that there was a difficulty, he went and made an apology to Mr. Cassels. It was a misapprehension as to the position of affairs. The papers, moreover, were in no sense confidential. They could have been obtained, with a little trouble, from other quarters.

Hon. Mr. MACDOUGALL—It was merely a matter of convenience between solicitors.

Hon. Mr. WELLS—Mr. Laidlaw was not concerned, directly or indirectly, with the getting of those papers.

With regard to the question of title, Mr. Ferguson has alluded to the Act of 1846. It will be seen from the preamble that this Statute professes to deal with all the Ordnance lands in the Province. Those that are embraced in the first schedule are vested in Her Majesty's Secretary of State. Those that are embraced in the second schedule are vested in Her Majesty for the use of the Province, and amongst those are 502 acres in the City of Toronto. There has been some misapprehension as to the effect of that schedule. It was supposed by Colonel Coffin, in the memorandum which he submitted to the Minister of the Interior, in 1875, that the land now in question was not included in the schedule. He was evidently misled by the description given in the second column of the schedule which mentions certain buildings. If you look at the top of the column, you will see that only the buildings are intended to be described, whereas, in fact, 502 acres were vested in Her Majesty. It is clear, therefore, beyond all doubt, that 502 acres, including all the land at Toronto, were vested at that time in Her Majesty.

Sir JOHN MACDONALD—It was decided at that time by Her Majesty's Government that no portion of the Ordnance lands at Toronto were required for military purposes.

Hon. Mr. WELLS—My learned friend falls back upon what occurred between the officers of the Ordnance Department and the Northern Railway, but I was surprised at the weakness of his case. This is the clause on which they rely; "all sales and agreements for sale, and licenses and agreements for license are respected." I say that there has been no sale, no argument for sale, and no license. He produces a document which purports to be a copy of an order of the Master General of Ordnance, but upon examination it appears on its face to be a document relating to the depot ground. It does not affect the 100 feet at all.

Sir JOHN MACDONALD—I understood that it included the 100 feet.

Hon. Mr. WELLS—No.

Mr. CASSELS—It includes the strip of 100 feet. The application is made to the Ordnance Board, and the whole application is treated of in these letters, and it is designated as 34 acres.

Sir JOHN MACDONALD—As a matter of fact, what is the area of the depot grounds?

Mr. CUMBERLAND—The area of land between Brock street and Bathurst street was simply about eleven acres, and the balance, therefore, would be the 100 feet up to Queen street. X

Mayor BEATY—The water lots contain 25 acres.

Hon. Mr. WELLS—This is an Order-in-Council *in re* the Northern depot grounds, therefore it applies only to the depot.

Mr. CUMBERLAND—The plans were made for the whole, and the application was for the whole. I remember having been personally engaged in it. The only doubt on the minds of the officers was whether or not it would interfere with the artillery power of the old fort: that was with reference to the right of way.

Hon. Mr. WELLS—That does not displace my argument. I say that this order has reference to the depot ground only.

Mr. CASSELS—There is a letter from Mr. Boulton which shows that the application for right of way as well as for depot.

Hon. Mr. WELLS—Very true, and I will refer to that presently to show that their application was never intended to embrace a strip 100 feet wide, but simply enough ground for an ample double track. But can anybody say that in all the correspondence and papers produced there is a sale or agreement for sale? All the elements of an agreement are wanting; the very lands are not stated or set out, and the price had not been agreed upon and has not to this day been paid or tendered. The letter which they produce from the Master of Ordnance was merely an admission that they were not trespassers.

Sir JOHN MACDONALD—They merely went in under the statutory power.

Hon. Mr. WELLS—Now what was that statutory power?

“Whenever it shall be necessary for the Company to occupy any lands belonging to Her Majesty reserved for military purposes they shall first apply for and obtain the license or consent of Her Majesty under the hand and seal of the Governor, and only then upon a report to him by the military authorities.”

The General Railway Act of 1851 is the Act which the Ordnance authorities refer to in this memorandum.

Mr. BOULTON—Not at all; it is our own charter, the statute of 1849.

Hon. Mr. WELLS—They enter under the Act of 1851, which came in force in August of that year. I have pointed out that there was no land marked out. The application for a line across the military reserve is “simply for an ample double track of railway.” Now they claim 100 feet. Under what authority do they claim it? They simply claimed for an “ample double track.” I say it is a fraud upon the Department if upon that application simply for a double track of rail they assume to take more, and rely upon this authority for all they choose to take after this application. They did not fyle, in the office of the Clerk of the Peace, as required by their charter, until 1856. That plan

only asks, apparently, for a single line of railway. Their statute requires them to fyle a plan in the office of the Clerk of the Peace, and also to fyle a book of reference which shall show the measurements. I have a copy of the book of reference, and there is not a single reference to this 100 feet in it. So far as the Grand Trunk Railway is concerned they have never fyled a plan at all. Here is a plan they fyled in 1855, showing this to be their track, and not the one now in question. (Plan produced.) Their charter requires them to fyle their plan, or prohibits them from going on with their work, because the charter of the Grand Trunk Railway is dated 1853, and it incorporates all the provisions of the Railway Act of 1851. Then, my learned friend relies upon the report of Col. Coffin in 1872. But that report only shows that nothing is found on the books of this Department to show that the Northern had ever paid a farthing for this property. But Col. Coffin makes another report in 1875. There had been an application on the part of the N. R. Co., the G. W. R., the G. T. R. and the City of Toronto, for the right to use Ordnance Land between Brock and Bathurst streets, and Col. Coffin reports that this land, under the operation of the Ordnance Vesting Act, and the British North America Act, is under the control of the Dominion.

Sir JOHN MACDONALD—That was in 1875. Was any action of the Government based on it?

Hon. Mr. WELLS—I think not. My learned friend says he relies upon the Act of 1860 for revesting the title in the Company. It has been explained that by the Act of 1859 the Government took possession of all this Northern Railway property, and it was revested by the Act of 1860. By that revesting Act they claim to have got a statutory title. That same point came up before Mr. Campbell and he decided that nothing more was intended than to deal with the real or personal estate of the Northern Railway—as they stood on the 4th May 1859—as they then existed they were transferred to the Crown, and as they then existed they were re-transferred and re-invested in the Company by the express language of 23 Vic. Ch. 105. And I remember in the argument, in the case of the Northern against the Grand Trunk in which Mr. Blake took part, this same point was raised by the Northern Railway Company, viz: that they had acquired a statutory title under the Act of 1860. Mr. Blake pointed out that it could not have been so, and the Court sustained his view of the case. If the argument of the Northern had prevailed on that occasion, then, of course, the decree in that case declaring that they had no title would never have been made.

Sir JOHN MACDONALD—I sat with Mr. Campbell in that case.

Hon. Mr. WELLS—My learned friend says that we have room to the south. He is rash when he says that. He forgets that the Central Prison and the Great Western grounds are in the way, and that it is impossible, therefore, for us to take that route. Then, he says that the Act of 1863 does not apply because it was repealed last session. So far as the Northern Railway Act is concerned, that repeal has no effect. My learned friend complains that he had not due notice of this application. The notice to the Great Western was served ten days ago, the notice to the Grand Trunk on Friday or Saturday last. My friend says that it was supplemented by a notice on Wednesday. That was simply remedying a defect in the notice, but it was substantially the same. They had the map served upon them last week, and the usual notice, which clearly defined all the crossings. If from Saturday till now is not sufficient notice, I would like to know what time they want. It is not a difficult question. It is not a question of an under crossing or an over-crossing, it is simply a question of where a level crossing shall be made.

Sir JOHN MACDONALD—How many crossings are there ?

Hon. Mr. WELLS—I do not know how many ; ten I suppose. The number does not increase the difficulty at all.

Sir JOHN MACDONALD—It does so far as safety to human life is concerned.

Hon. Mr. WELLS—The crossing must be concealed some way or other : it is only a question of how to cross. It is of very great consequence to us now to have this question settled at the earliest possible moment. Our crossing after we leave the round house is at a point which will be less troublesome and less dangerous than any other—that is upon the road which leads to the water works. If we cross the tracks there, it will be at a point where they must always leave an open space—that is they do not collect their cars there.

Sir JOHN MACDONALD—You do not slow off there.

Hon. Mr. WELLS—Oh yes. We must go very slowly there. All the crossings are sidings.

It is perfectly clear therefore that the land in question—at all events west of Bathurst Street is within the control of the Dominion Government. They threaten us with protracted litigation if a patent or license of occupation is granted to us. I have only to say upon that point that we are perfectly willing to take a patent or license at our own risk and fight the question out, if necessary, before the courts.

Mr. CAMERON—I approach the discussion of this subject with very great difficulty for the want of proper time for deliberation. Appearing on behalf of the Northern Railway the first intimation they had of this meeting was from a brief telegram from Mr. Trudeau, received on Thursday of last week, which, of course, did not state in detail the nature of the application or anything further than the Railway Committee would consider the application of the Credit Valley Railway for crossings to-day. No notice was received until Monday afternoon when we received a copy of the proposed application and plan. Having received the notice from Mr. Trudeau, Mr. Cumberland had a consultation with me upon it on Saturday evening last, but at that time we were in the dark as to what the Credit Valley wanted, having at that time no document from them. It was only this morning, for the first time, I saw the proposal of the Credit Valley Company, and since Monday, when Mr. Cumberland received it, he had no sufficient opportunity of investigating the matter or calling the Board together or of taking such action as is necessary to be taken. I do not propose, however, to insist upon any technical question as to the right of this tribunal to consider this matter if they think themselves seized of it. But, as a matter of course, if the Railway Committee were not seized of it, it would, no doubt, lead to the making of an order that would only cause subsequent litigation and difficulty, so that if the proceedings are irregular it would be futile to occupy time in discussing the matter. As to the application to the Minister of the Interior, addressed to him in his sovereign administrative power, it would probably require no notice, but it is an abstract question which, to be properly discussed, requires a good deal of time for preparation it is so complicated. I would, however, call the attention of the Minister of the Interior to this position :—whether he is prepared in that capacity to



take upon himself to determine what undoubtedly is a difficult question of law involving a question of title to property? Enough has already been said to show that there are grave doubts and serious disputes between the Railway Companies as to the nature of the title which the Northern and Grand Trunk Railways have to this hundred feet strip of land from Bathurst to Queen Street. The Northern contend that they have a title which has been sanctioned by acts of Parliament and officers of the Government, and as to which the most that can be said is that they may have a lien upon it to the extent of the purchase money. Then the question arises whether it belongs to the Imperial or to the Dominion Government. But so far as the land is concerned the Northern Railway contend that they are possessed of it by a title which subsequent legislation and various proceedings have made indefeasible. The Grand Trunk Railway Co. come under them and say they also have a right, and the Credit Valley now comes in and says "You have no right to this land; you are merely squatters." I would ask the Minister of the Interior whether he considers it consistent with his functions and jurisdiction, when there is a grave dispute of that kind between rival Companies as to the question of title to property, to put himself in the place of the recognized tribunals of the country and say, "The Crown owns this land; I will take the property away from the Companies who claim it, and are in possession of it, and give it to another Company." I question whether it is a wise exercise of discretion on the part of the Government. I should say that it was an improper exercise of power in a matter that should be left to be settled by the ordinary tribunals of the country. At the same time, on behalf of the Northern Railway I wish most emphatically to disclaim any intention to interfere with or to impede the entrance of the Credit Valley Railway into Toronto, or the most liberal use that can be possibly granted of this piece of land, or any other property they may require for the necessary purposes of their road. I feel we can make great complaint, with very good ground, of the manner in which the Northern Railway has been treated in regard to this matter. An amicable discussion went on between the Credit Valley Company and the Northern Company with reference to this question for some time. Application was made on the 14th of April on behalf of the Credit Valley Company, by Mr. Laidlaw, by letter to the Northern Railway Company, asking the Board to meet a deputation from the Credit Valley Company. An appointment was made, and on the 19th of April a deputation, consisting of Mr. Wells, solicitor, Mr. Campbell, Vice-President, Mr. Baillie, engineer, and Mr. Laidlaw, attended before the Northern Railway Board. There was then a full examination of plans made, and the following minute was unanimously agreed upon by the Northern Railway Board (here Mr. Cameron read the minute.)

The thing rested for some time. There was nothing more heard from the Credit Valley Railway. On the 6th of May, Mr. Campbell, the Vice-President of the company, when spoken to about it, expressed surprise that Mr. Wells had not communicated with the Northern Railway in accordance with the understanding arrived at on the 19th of April. Then on the 22nd of May, a letter was written by the Northern Company to Mr. Laidlaw, calling his attention to this minute of the 19th of April, and expressing a desire to have that arrangement carried out. To that Mr. Laidlaw, on the 30th of May, replied (here he read Mr. Laidlaw's letter.)

Now what does this mean? Does Mr. Laidlaw mean to assert that the executive administration of the Company could not make an arrangement that would bind that Company? Does he mean to say that whenever the executive of the company changes that their following executive are not bound by what their predecessors may have done? Surely he could not have attempted to make such an unreasonable proposition as that!

Hon. Mr. WELLS—He does not say that they could not; he simply refuses to bind the hands of his successors.

Hon. Mr. MACDOUGALL—If my learned friend is going to enter into an argument of that kind, I can settle the whole difficulty in a minute. I do not think it is within the power or purview of the Railway Committee to determine questions of etiquette or to consider the conduct of the parties in this matter, but I hold in my hand a letter which will explain the reason why application was made to the Railway Committee of the Privy Council. On the 22nd of April, four days after this proposed arrangement by the Northern Railway with the Credit Valley Railway, we received a letter from Mr. Bell, the Solicitor of the Grand Trunk Railway, in which the following occurs :

“ These lands are ours, and the Northern Railway have no claim to them in any form. One cannot therefore help admiring the generosity of that Company in giving your people liberty to use that which is not theirs. \* \* \* This I can say, that if you attempt to take property claimed by us, we will take steps to protect our rights.”

It is not surprising therefore, that Mr. Laidlaw after this threat, took the course which he has pursued.

Mr. CAMERON—That letter was never received or seen by us. That is the first that we have heard of it.

Mr. BOULTON—In answer to Mr. Macdougall I may state that at that meeting with the Credit Valley people, it was distinctly told them that it would be necessary to obtain the consent of the Grand Trunk Railway as well. It was said that the negotiation was going on and had not ceased. We said that the litigation had not ended, and the trouble between the Grand Trunk and the Northern had not ceased ; we were negotiating for the settlement which was afterwards accomplished.

Mr. CAMERON—What I was going on to say is, so far as the Northern Railway Company are concerned, they have been desirous and anxious to afford to the Credit Valley every facility for entrance into Toronto from the beginning ; that there was no disagreement between them, and this present adverse proceeding when it was introduced took them very much by surprise, and the tone in which it has been carried on ever since has taken them still more by surprise. The Credit Valley while they have appealed to this Court and to their rights, have not been content with that, but have been endeavoring to manufacture public opinion by carrying on an active and continuous correspondence in the newspapers from one end of the country to the other, and have been inciting different boards and municipal councils to pass resolutions.

Hon. Mr. MACDOUGALL—There is no evidence of that before us !

Mr. CAMERON—There is this evidence—continuous correspondence in the newspapers, and all these numerous telegrams, and resolutions of municipal councils have been passed at the instigation of Mr. Laidlaw.

Hon. Mr. MACDOUGALL—Of somebody perhaps.

Mr. CAMERON—I think my hon. friend, who knows Mr. Laidlaw's energy so well, will not attempt to question his connection with it. Then Mr. Laidlaw goes into the controversy himself by a very violently expressed letter, published yesterday—most intemperate and violent in its tone. I am sorry to say that it is inaccurate also. He says :

“The Credit Valley Railway does not want to owe the title of their right of way to ‘deep water in the Toronto Harbor to the grace of the Northern Railway Company's ‘manager, or his half dozen bondholders.’ Now I think that this is uncalled for. He adds :

“Neither does the Credit Valley Railway Company want to pay the Northern Railway ‘way job prices for fictitious expenditure in moving a few thousand cubic yards of ‘earth !’

I think that one of the gentlemen brought down here by the Credit Valley Company—Mr. Frank Shanly—will be able to testify that it is not a fictitious price, but a *bona fide* price paid to him of \$60,000 or \$70,000, for work which was done by him, the benefit of which Mr. Laidlaw wishes to get for nothing. But I thought it necessary at the beginning to disclaim any feeling, on the part of the officers of the Northern Railway of a hostile character towards the Credit Valley Railway, and I think it has been amply shown that we have met them in a most friendly way, and, in fact that the intervention of this tribunal is almost unnecessary, because if the matter is left to the negotiation of the separate parties, the Credit Valley Railway will get all the advantages they want, just as the Toronto, Grey & Bruce Railway did, without difficulty. But they come here standing on their strict rights. As Mr. Laidlaw says they want to owe the Northern Railway or other companies nothing. They want no grace or favor. They negotiated until they found that we were willing to meet them amicably, and then they say : “We will demand our rights at the point of the bayonet.” I say the Minister of the Interior would not be justified in taking into his hands the sword of justice and saying : “I will constitute myself the Court, and decide this intricate question of law as to whether these companies have any right to these lands and give orders to compel them to take up their tracks.” How is the Minister of the Interior going to carry out an order of that kind, if he makes it ? What is the use of empty thunder ?

Hon. Mr. WELLS—Suppose the Minister of the Interior issues a patent, what then ?

Mr. CAMERON—That would be subject to appeal to the Courts to decide its validity. No possible proceeding can be taken by issuing a patent or license of occupation, the validity of which cannot be brought into the Courts. I say, therefore, that the Minister of the Interior, under the circumstances, ought not to take a course which will result in no beneficial advantage to any of the parties concerned, more particularly when the correspondence that I have read shows that the other interests are quite willing to negotiate amicably and give all that the Credit Valley Railway wants. As to the track from Queen Street to Bathurst Street, it is identically the track which Mr. Cumberland laid down for the Credit Valley Railway, so that there is no dispute between them and the Northern whatever, as to the mode by which the Credit Valley Railroad shall come into Toronto, west of Bathurst Street. We are willing to give them all they want to that point, but when they come here and say we have no right there ; when they attack our title and say : “We will not take anything from you, but we will insist that you have no right whatever there,” we say they are doing what is not necessary ; that they

are gratuitously inviting litigation and trouble, and it is not that course which the Government ought to favor either by license of occupation or grant. We are willing to give them just as good a title as we have, and when they get there with their track, they will have just the same right as ourselves.

Hon. Mr. MACDOUGALL—Will you bind yourselves not to take us into the Court of Chancery the same as you did the Grand Trunk Railway?

Mr. CAMERON—It was when they wanted more than we gave them that the litigation arose. A great deal has been said in reference to the Ordnance Department. I do feel that it is almost a waste of time to go into a lengthened argument as to the title of the Northern Railway to this piece of land when there is the fact that there is no dispute between the Credit Valley and the Northern on that point. If it is to be discussed, however, I will reply to what some gentlemen who have spoken have said by saying that the Railway Act of 1851, which Mr. Wells has quoted, has no application whatever to this railway, because the preamble says that it applies only to railways afterwards incorporated. The Northern was chartered in 1849 and the Act was passed in 1851, and you can dismiss that from consideration. The right of the company to take that rests under 12 Victoria, section 10, which expressly gives them power to enter upon the lands of the Queen as well as other lands.

Hon. Mr. McDOUGALL—Without permission from the Government?

Mr. CAMERON—Certainly, there is no limitation whatever to it.

Sir JOHN MACDONALD—Does that bind the Queen?

Mr. CASSELS—There is a reservation in the Ordnance Act.

Mr. CAMERON—I suppose that the Crown will not now say that what the Crown did 20 years ago and acquiesced in is to go for nothing? The Act 7 Victoria, cap. 43, specially reserves to railways the right to go in there. As to the argument of Mr. Ferguson, it amounts to this: That the Northern have no title there whatever except a mere possessory title, liable to be determined at any moment by a notice to quit. That, I submit, is not a correct view. Mr. Coffin's opinion that has been quoted two or three times is based upon a misconception of the facts.

Sir JOHN MACDONALD—The last report is simply a confidential one upon which no Order-in-Council was passed, and it ought not to be taken into account at all.

Mr. CAMERON—There was, amongst the documents in Col. Coffin's office, a letter from Capt. Gallway, dated, "Montreal, 3rd December, 1856," recognising and sanctioning an application of the Northern Railway for this very piece of land described in their application as the land they wanted, embracing altogether thirty-four acres, and also the right of way up through Queen street. That was seriously recognized by the Master General of the Board of Ordnance, on the 2nd of Feby., 1852. I say that our application in 1851; the recognition of it in 1852, and the subsequent survey of the land by the authority of the officers of the Ordnance Department, made a complete title to that land. The original of this plan was produced, and Mr. Fleming proved in his evidence in the

suit between the Northern and the Grand Trunk, that, acting as surveyor for the Board of Ordnance, he had laid out the Ordnance reserve in the City of Toronto, excluding from it this station reserve, and the hundred feet strip up Queen street; and he had prepared and delivered to the Ordnance Authorities as their officer, a plan excluding from their property this very strip of land.

Hon. Mr. AIKINS—What is the date of the map?

Mr. CAMERON—June, 1852. Mr. Fleming gave evidence in the Chancery suit in December last, showing that 100 feet of land was taken by the Northern Railway; that it was surveyed by him early in 1852; that it was enclosed in fences; that it was marked by a stone monument; that a plan of it was delivered to Mr. Walkem, Surveyor of the Ordnance Department, Mr. Fleming having done his work under instructions for the Ordnance Department and not for the Railway Company. It has been recognized throughout, by subsequent legislation and by Orders-in-Council all showing that they are in occupation by some authority. Can it be said then that they are mere squatters? I do not think it is really worth while discussing that question unless the Credit Valley Company wish to take us by the throat and say: "You are mere squatters." We offer them a right of way; they say it is what they require, and yet afterwards they come forward and make a demand for this very same privilege from the Government. I say that the Government have no right under the circumstances to step in and say that they will take that property from us. I think instead of putting us all to great expense, and occupying the time of the Government in discussing this question, if Mr. Laidlaw, and the officers of the Credit Valley Railway, had met the officers of the other two companies, the matter could have been arranged amicably. I do not think there is any desire to prevent the Credit Valley Company from reaching their terminus. When they come east of Bathurst street another question arises. We have suggested to them how they can reach that point. We have shown them a plan by which they can come down there without interfering with our rights, or causing anybody inconvenience. This plan, which I now produce, shows the road as it is at present. If they come in by the way they propose, it will disarrange all our tracks. What we propose is that the two tracks of the Grand Trunk Railway should be moved a little northward, which could be done without cramping them, and that the track of the Great Western Railway should be moved northward, and the track of the Credit Valley Railway could be laid south of all the others. In that way the Grand Trunk Railway would have two tracks, the Great Western Railway one, and the Credit Valley Railway one, and the Northern would not be interfered with. What the Credit Valley Railway proposes to do now is to tear down our fence and encroach upon our yard, cross our tracks, and take some sixteen or twenty feet off our property.

Hon. Mr. WELLS—That is vacant ground.

Mr. CUMBERLAND—What we contend is that the reserve, as it is now constructed, and which we paid Mr. Shanly \$70,000 to improve, is sufficient not only to receive the three tracks there already, but also the Credit Valley Railway track, and still have some space to spare; and that it would be the most economical course for the Credit Valley Railway to take to avail themselves of it by shifting over the three existing tracks, and laying their own track where the Great Western track is at present. Now the Credit Valley Railway Company under advice that cannot be professional, pro-



pose to take sixteen feet off our yard. What does that mean? Of course they will have to pay a very much more considerable sum as their proportion of what we paid to Mr. Shanly. They will also have to pay for the removal of our fences, for pulling down our buildings and reconstructing them somewhere, and what will be the result? There will be some twenty feet of waste land left. It really looks like a wilful desire to intrude upon property without any reason for it, inasmuch as after four tracks are put in there will be twenty feet of waste land between the present track of the Grand Trunk and the others.

Hon. Mr. WELLS—Will my learned friend undertake to say that the Grand Trunk Railway and Great Western Railway will shift their tracks?

Mr. CUMBERLAND—If you are making a proposition to the Railway Committee make it with as much interest to yourselves and as little injury to your neighbors as possible.

Hon. Mr. WELLS—You are assuming that we have the right to apply to the Railway Committee of the Privy Council to compel these railways to move their tracks. The Committee have no such power.

Mr. CASSELS—Mr. Hickson is willing to do all he can to assist the Credit Valley Railway, but the managers of the Grand Trunk Railway and Great Western Railway are way, and all we can do is to let it stand over for a month.

Mr. CAMERON—The very plan they bring here is dated 17th of June, and on two or three days' notice they call upon these companies while their managers are away in New York, to appear before the Railway Committee of the Privy Council. No time is given to study up the question, and in the meantime they endeavor to rouse public opinion against the Grand Trunk Railway and the Northern, and hold them up to odium as being the bugbears who are endeavoring to crush out this innocent young Company, of whom Mr. Laidlaw is the fighting representative, and expose them to public hatred. They come here now and say "we will take as a matter of right from you what you were willing to concede. We will not take it as a matter of favor or arrangement from you. We will have nothing to thank you for." We are warranted in asserting that this tribunal has no jurisdiction over the question. The Railway Committee of the Privy Council can interfere only where the Companies are unable to come to terms. The statute requires that a proposition shall be made by one Company to another, and it is only when that proposition is rejected that the Privy Council steps in.

Sir CHARLES TUPPER—What clause of the Act is that in?

Mr. CAMERON—I forget the number. It is the clause giving the jurisdiction to the Railway Committee of the Privy Council.

Sir JOHN MACDONALD—It has been assumed on both sides that the Railway Committee have that power. I should like to hear further on that point.

Mr. CAMERON—So far as the mere crossing goes they have not taken the necessary proceedings to bring us here properly. They have not given us time to investigate the matter, and what they ask is a great deal more than crossings or intersections. They ask, in

fact, for the giving of the right of way, and so far as the Railway Committee are concerned it seems to me altogether premature to discuss it before them. Until it is settled how the Credit Valley Company are to get down to the point where they require to cross these different tracks it is impossible to discuss the question as to how they should cross them. No engineer can say where they are going to cross until it is seen on which side they are coming. I do not think there will be any occasion for litigation if the Credit Valley Railway Company will only approach the question in a candid or straightforward way instead of the violent and abusive manner they have chosen to adopt, assailing the companies which are disposed to be friendly to them, and treating them hostilely and endeavoring to convince the public that the Grand Trunk Railway and the Northern Railroad Companies are endeavoring to keep them out of Toronto. We say that the attacks upon the Northern Railroad Company management on the part of the Credit Valley Railway are utterly unwarranted and our silence has only been caused by the fact that when there was an appeal to this *quasi* judicial tribunal, they thought it improper to appeal to the public press on this matter until this tribunal had disposed of it in one way or the other. Adverting to the legal question, Mr. Ferguson argued that this Ordinance Act 19 vic., showed that the land in question was embraced in the 502 acres covered by the second schedule of the Act. I think the proper construction of the second clause of the act shews—

Mr. FERGUSON—I assumed that the place we are speaking of now was part of the 502 acres, and the burthen of proof is on you to show that it is not.

Mr. CAMERON—I say that assumption is unwarranted and inconsistent with the various clauses of the Act—more particularly with section two, which defines the lands which are embraced in schedule one, which we say, include these lands now in question.

Mr. FERGUSON—The lands are in schedule two.

Mr. CAMERON—I say the documents which I have referred to cannot be construed as amounting to anything less than an agreement. It is true, there may be no fixed rental; on the contrary, I presume there would be the interest on the money until the principal was paid. The Board of Ordnance fixed the value per acre of the land at £200, and throughout they have treated the company as being bound to pay the amount of the purchase money. Something was said by my learned friend, Mr. Beaty, appearing here as Mayor of Toronto, in reference to the rights of the company. I would refer him on this point to the opinion which the city procured from eminent legal authority, Mr. Bethune.

They have been advised by their own counsel that the Northern Railway Company have a title to the land. Then, in reference to the award of the Court of Chancery that has been spoken of, it was admitted by all to be utterly void, but, if any other authority on that point is required, I would refer again to Mr. Bethune's opinion.

The city has also been advised by him that the award on which they lay stress is void, and also that the Northern Railway Company have a perfect title to this land, subject to the payment of valuable consideration therefor.

Mayor BEATY—Why do you not pay it, or arbitrate?

Mr. CAMERON—You have to show your right to it. We are perfectly willing, when the right time comes, to pay the right person. The City of Toronto have not shown that they are the parties. Then, in reference to Mr. Hickson's evidence in the Chancery suit, it is quite evident that what he meant by the word "own" was owning a title in fee simple.

The whole decision in the suit merely amounted to what would be a non-suit in an action for an ejectment; that the Northern Railroad Company as against the defendants, proved no title, therefore the decree was nothing but a technical form of declaring that the plaintiff had not proved a title as against the defendant. Mr. Hickson was not in a position to swear whether they had a title or not. As far as the Court was concerned, it simply said: "We will not give judgment for the plaintiff, because as against the defendants we think they are not entitled to it." For these reasons I would submit to this honorable body, in the first place, they are not seized of any jurisdiction that would make an effective order in this matter; and in the second place, the circumstances of the case are such that they ought not now to interfere. There is no occasion for invoking their authority, even if they have it, and as far as the Northern Railway Company are concerned, we are willing and anxious to make any and every reasonable arrangement, and I defy my friends on the opposite side to show one tittle of evidence to prove that the Northern Railroad Company have endeavored directly or indirectly to throw any obstacle in the way of the Credit Valley Railroad Company obtaining the freest possible access to the City of Toronto. If left to ourselves, we would assist them in every way to get into the city, and I presume it would be the same with the Grand Trunk Railroad, though I do not speak for them. This attempt to get up an excitement against the other railways is entirely unnecessary. If they stand on their strictly legal rights, I contend that this tribunal has no right to interfere with us. If they make an order it will simply be the precursor of litigation. I do not suppose that the Credit Valley Railroad Company want to embark in litigation with rival companies. What they want is to get into the City of Toronto. They cannot accomplish that by hostile proceedings. I submit, therefore, that upon this application no order should be made by this tribunal, and that the result of that will certainly not in any way injure the cause which the Credit Valley Railroad Company profess to have at heart—that is to get access by a convenient and proper mode to whatever point they desire to reach in the City of Toronto.

Mr. BOULTON—I just wish to make one remark with reference to the claim of the Northern Railway to having a statutory title to the property. I think that there can be no question when you look at the Order-in-Council that it does give us a statutory title, and that it was so intended, because if it was not so, what was the necessity or meaning of putting in this provision reserving to the Governor-in-Council control over the station grounds? If they owned the property they had full control over it, and putting in this limitation shows clearly that they gave it to the company, and intended to give it to them, and the best proof of it is that at the time this arrangement was made the company were *in extremis*. They were not in a running condition, they had to borrow a large sum of money to put the road in order. This reservation was deliberately put in this Order-in-Council because they were giving this very land to the company. We were not in a position, and could not have been in a position to pay for it at that time, and the Government had no intention of calling upon us to pay for it. The reservation was simply put in, as Mr. Cassels mentioned at the opening of the case, to provide for negotiations which had been going on for several years past between the three companies

—the Grand Trunk, the Great Western and the Northern Railway—with regard to their entrance into the city. It is quite clear that the proper consideration of the reservation is that it was intended to apply to the roads existing at that time, because if it was not so intended it would have been worded in a very different way. You will see that it specifies “with the other railways in the city.” At that time other only other railways in the city were the Grand Trunk Railway and the Great Western Railway. If it was intended otherwise it would have been, “proper connections with other provincial railways.” I do not think that any person reading those words can come to any other conclusion than that at which we have arrived. I am perfectly satisfied that when this Order-in-Council was passed it was the deliberate intention of the Government, because there was a sum of money provided out of which we were to pay our liabilities. If it had been contemplated or intended for a moment that we should pay for this land there would have been a provision in the Order-in-Council of 1860 to meet the payment of this very property, but there is no such provision at all. The land is revested in us and the lien of the Government continued over the whole property for their previous advances. If the money was coming to the Government at that time it would have been provided for—it would have been added to the other lien, but it was deliberately intended that the land should not be paid for; and I say that it would have been a deliberate fraud on the bondholders who advanced the money at that time, if it had ever been contemplated for a moment that the Company would have been called upon to pay for that land. The bondholders advanced the money on the faith that this property belonged to the Company, and I say it would have been a monstrous injustice, and a gross breach of faith if the Government had held that the Company were bound to pay for that property. The people in England supposed, and rightly supposed, that it was the property of the Company, and that it was the intention of the Government to regard it in that light. But the Act of 1875 at any rate, even supposing that it applied to existing railways, repeals that Order-in-Council.

Hon. Mr. MACDOUGALL—I have only two or three words to say with reference to the last point that Mr. Boulton has made. It seems he takes this opportunity of disposing of a question with which we have nothing to do. Speaking on behalf of the Credit Valley Railway Company I may say that we are not disposed to deal with this question at all, whether the Northern Railway Company are to pay the Government or not.

Mr. CUMBERLAND—You would have to pay your share of it in the end, and you are only making it more costly for yourselves.

Hon. Mr. MACDOUGALL—Both in the beginning, middle, and end of his speech, Mr. Cameron laid great stress upon those newspaper articles for which we are not responsible. That is another forum which is open to every subject in the country if he choose, and the learned gentlemen could have gone into it themselves if they had chosen to do so. The whole question is whether we were driven to come here, and, being here, whether the Government has the power to answer our claim and to give us what we demand. Upon that point we say that we were driven to come here. In the first place we were negotiating with the Northern Railway Company for the privilege of getting down to Bathurst street. We thought they had possession, and had therefore the power to permit us amicably to occupy a portion of this hundred feet. Certain negotiations took place; certain members of the Credit Valley Railway Board discussed the matter with the Northern Railway Company's Board. Nothing was agreed upon finally. Then, as I pointed out, four

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days afterwards came this threat from the solicitor of the Grand Trunk Railway, of legal proceedings—this warning that they were pretending to own what belonged to the Grand Trunk Railway; that their grants or privileges would go for nothing, and for us to have a care what we were doing. Of course that stayed our hands, and we began to consider our rights. It must be borne in mind, since there is an argument as to our good faith and honesty of intention, that one condition of the Northern Railway Company was that we were to bargain not to interfere with the station grounds. They foresaw we had a right and might be driven to exercise that right to cross the station grounds, and it was to be a condition of this amicable arrangement that we should agree not to interfere with that slice of ground which it might be necessary for us to take. We were to make an arrangement with the Grand Trunk Railway. When we go to the Grand Trunk Railway in pursuance of that suggestion, the Grand Trunk Railway Manager tells us that he is very amicable, very friendly, and anxious to let us in, but in order to avail ourselves of his kindness we must agree not to enter into arrangements for traffic that would compete with his line. He wishes to put us under arrangements that would practically defeat the very object of our existence; therefore having been squeezed by the Northern Railway Company to go to the Grand Trunk Railway Company, and having been squeezed by the Grand Trunk Railway to bind ourselves by certain conditions which were impossible we were out of court altogether and were driven to see what our rights were, what the public right was, and what tribunal could exercise that right in our favor. We came to the conclusion that the title or right of the Grand Trunk Railway and the Northern Railway Company to that hundred feet was merely a possessory title—that they were merely squatters. They can produce no title except private correspondence found in the archives of the country. I think it is quite open to argument that they had no power to enter upon these lands; that they were not lands vested in Her Majesty in the ordinary way as Crown lands. We simply say that they have not a title; that it is within the power of the proper public authority to deal with the fee of that land still. The Government can grant us, if they feel so disposed, a right to a portion of it. They can ignore this possessory right, and give us a license of occupation from the Crown to pass over that 100 feet. We will be content with that for we are not alarmed at those treats of going to the Courts or to the Privy Council. If I understood Mr. Cameron rightly he admitted before this Court that they were quite willing to allow us to come down to Bathurst street on the line as surveyed, if we do not come within their station ground fence. If he can show us how we can compel the Grand Trunk Railway and Great Western Railway Companies to shift their tracks we will be very glad to have this authority, and have it put in writing and endorsed by the Railway Committee, if they have any authority to deal with it, but we do not find in the Railway Act that we have any authority to compel other railways to shift their lines. We can cross them, but I do not see amongst the powers that are giving us, that of shifting tracks.

Mr. CAMERON—I ask whether anything has occurred since the 30th of May to put the matter in a different position from what Mr. Laidlaw then put it in? He was then satisfied with our proposed line through that 100 feet. If nothing has occurred since the 30th of May between the Grand Trunk Railway and the Credit Valley Railway, why are we here?

Hon. Mr. MACDOUGALL—Something has occurred. We have had a letter from the Grand Trunk Railway Solicitor, which I have read.



Mr. CASSELS—The letter from us says that you are not to compete with us for traffic east of Toronto.

Hon. Mr. MACDOUGALL—That is not the matter before us; we are here rightly under the law claiming the interference of the Government to let us enter Toronto, where we have a right to go. If the Northern Railway Company and the Grand Trunk Railway Company will consent to shift their lines so that we will not be driven to come here again or go into court, we are satisfied.

Mr. CUMBERLAND—You cannot say that you have ever asked them to shift their lines?

Hon. Mr. MACDOUGALL—We have asked for right of way.

Mr. CUMBERLAND—You have not asked the Grand Trunk Railway to shift their track?

Hon. Mr. MACDOUGALL—No.

Mr. CUMBERLAND—It is the simplest, best, cheapest, and easiest way to settle the matter.

Hon. Mr. MACDOUGALL—It is all very well to say that now, but it should have been said before.

Mr. CUMBERLAND—You will not find a discourteous word in all my correspondence. We have invented your line, offered it to you; you have concurred in, and accepted it, and yet we are brought here at enormous expense, without any necessity for it.

Hon. Mr. MACDOUGALL—I do not think the expense is enormous.

Mr. CUMBERLAND—You may not, but we do.

Hon. Mr. MACDOUGALL—We have invoked the interference of the Government in the proper way. Our plan has been filed, and you now admit that the line which we have chosen is not injurious to you.

Mr. CASSELS—That plan is dated the 17th of June.

Hon. Mr. MACDOUGALL—The question of time has nothing to do with it.

Mr. CASSELS—The management know nothing of it, and we object to the jurisdiction of this court.

Hon. Mr. MACDOUGALL—You should have objected to the jurisdiction of the court at the outset.

Mr. CAMERON—We did object to it then.

Mr. CASSELS—We objected to the title being discussed, as we were not prepared for that, and we contend also that the question of crossing could be better discussed when the point of intersection was reached.

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Hon. Mr. MACDOUGALL—With reference to the last Act, on which Mr. Boulton relies as having rescinded the Order-in-Council, reserving the control of railway lines in the city, the question was raised by Mr. Oliver, M.P. for North Oxford, at the time this Act was before Parliament, that it might be so interpreted to the disadvantage of the Credit Valley Railway. A motion was made in Parliament embodying that view, and providing against it. It was argued there by members of the House on both sides, that no such interpretation ought to be put upon it, or could be put upon it; but Mr. Mackenzie, with that power of decision, and ability to see through Acts of Parliament, which distinguish him, held that it was an absurdity that any such interpretation could be put upon it. The debate on the question is reported in the Commons *Hansard*. The whole matter was discussed and disposed of, on the assumption that it was not the intention or the meaning of the Act. Now, gentlemen come here and take the very ground that Mr. Mackenzie considered absurd in 1875; they contend that it was the intention of Parliament to repeal the order. If there had been any suspicion in the minds of members that such an interpretation could be put upon it, it would have been amended. If any suspicion, even now, should arise, it will be amended next session. It was never intended that two railway companies should have the power to lock up access to Toronto. Public indignation would be aroused, and find its expression in Parliament if any attempt of the kind were made.

Sir JOHN MACDONALD—Cannot this be settled by the railway companies?

Hon. Mr. MACDOUGALL—We merely want to get into the city.

Mr. CASSELS—There would be no trouble about a settlement if Mr. Hickson were here.

Sir JOHN MACDONALD—One thing is quite clear it is going to be a complicated matter as to the title. If the Northern Railway or the other railways have any legal or equitable title the Government cannot interfere with that, and no matter what the Government might do the Courts would over-ride any decision they might arrive at as to getting across this Ordnance property. No grant, or patent, or license of occupation will be of any value if the title is elsewhere, either legally or equitably. I think that it would be impossible and very unwise for the other railways to attempt to keep the Credit Valley Railway out of Toronto, because it is quite true, as Mr. Macdougall says, it would be impossible to prevent their getting power from the Legislature to do so, if in no other way. Public opinion would be against the Credit Valley Railway being kept out. Whether it was wisely commenced or not is another question. There it is, a railway now in existence; a railway which is standing at the threshold of Toronto, wanting to get in, and if by any exercise of legal right the other railways keep it out of the city I am quite sure the Legislature, as a matter of justice, will be compelled by public opinion to override all those legal rights and give this Company's railway admission into Toronto. Just as surely as I sit here the Legislature would force the other railways to yield the track, and having that fact before them I think that they should address themselves at once to do it without any trouble from litigation or otherwise. Then, as regards the right of the Crown: I speak from myself only just now as Minister of the Interior, and I state only my first impression without prejudice to final action of counsel in the matter; but I think that the Government would feel themselves very much inclined to assist the Credit Valley Railway in getting into Toronto. They cannot, of course, override any legal or equitable title that the other roads may have, but they can do this: they can say if we have got

any rights there—it the title be in the Crown—"we will grant a license of occupation to the Credit Valley Railroad subject, of course, to all those other rights." It might be a license of no value, but I think the Crown ought to do that. I think we ought to assist the Credit Valley Railway as far as we can in getting into Toronto, but, at the same time, the Credit Valley would have to take it at their own risk, and it would be of very little value to them, because it is evident the title is so complicated that it would be hung up in the courts for a long time. Therefore, I think it is in the interest of the Credit Valley, as well as of all the other railways, to come to an arrangement. I do not think the Grand Trunk or Great Western or Northern railways have a right to complicate the matter by making any conditions as to the terms of future traffic. I think the only question between them is, how can they arrange it without disturbing the business of the different roads. The Credit Valley Railway can get into Toronto, and I do not think the other roads should impose any conditions as to trade. That must be settled in some other way under the terms of the Railway Act or by legislation if there is anything like an attempt at monopoly, increasing rates unduly or hampering trade. That is my strong opinion. Then, as regards crossings, supposing the Government conclude to say that they think they are bound to give a track across their property—if it be their property—to the Credit Valley Railway, then the second question of crossing comes up to be settled. That must be settled by the Railway Committee unless there is an arrangement made between the different companies. I think the claim made by Mr. Cassels on that point for delay is a reasonable one. I think the notice given was too short; that the interests at issue are too great to be decided on so short notice. At all events the amended notice given only three days ago, is not sufficient and the Railway Committee will be inclined to grant on that branch of the subject a reasonable delay—say ten days or a fortnight. In the meantime I hear, if time is only given, you can come to an agreement. I dare say that the present Chairman of the Railway Committee will probably be at sea by that time, but the Committee can meet the different railways on the subject of the crossing at any time they can arrange themselves.

Sir CHARLES TUPPER—Perhaps the gentlemen can agree amongst themselves as to what time would be necessary.

Mr. CASSELS—When would we know your decision as to the question of title? We contend that the railway ought to be built to the point of intersection before a decision should be given regarding a crossing.

Hon. Mr. WELLS—I think it would be far more sensible to settle the crossing first.

Mr. CASSELS—I do not apprehend from what I have seen of the correspondence, and from what I know of Mr. Hickson's views that there will be any difficulty at all. With regard to the after progress of the road, when they get to the point of intersection it will be time enough to talk about it.

Hon. Mr. MACDOUGALL—We object to that very strongly, because until we know where we are to cross we cannot go on constructing our line.

Mr. CASSELS—There is no jurisdiction in this Committee as to crossing until you get to the point of intersection, unless an Order-in-Council is made and acquiesced in, if there is to be one.

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Sir JOHN MACDONALD—I take it that the Railway Committee would on a scheme for crossings, or a series of schemes for crossings, being laid before them decide upon any length of line.

Sir CHARLES TUPPER—It does not appear to me that much time would be lost, assuming that ten days was the time fixed to take this matter up, because if the plan of the Credit Valley Railway is submitted time could be saved by the Department sending an engineer to examine the ground in the meantime and have that information subject to the representations of the parties who are adverse. It does not appear to me to be necessary to delay that question if there is no disposition to cause delay. Could it not be done hypothetically? If they do I am inclined to think the Companies might agree, then the question of crossing can be taken up.

Mr. CASSELS—I apprehend that when the legal question is looked at, the Crown will not be inclined to grant the right to the Credit Valley Railway to cross. Without consulting the Grand Trunk Railway authorities I am not prepared to say what action they would take on that point. There are other rights very largely affected. There is not only the title with regard to this strip, but other large interests, and I am not prepared to say they would acquiesce in an adverse decision. All I ask is, before any other point is taken, there should be a judgment upon this first point. If we agree in the meantime there's an end of it.

Sir JOHN MACDONALD—I should like to see a line arranged for the Credit Valley Railway to get into Toronto, and if the question of title could be summarily left to counsel of high standing, or some tribunal, it would then be a question of compensation. If this property belongs to the Northern Railway, the Great Western Railway, or Grand Trunk Railway, and if the Credit Valley Railway Company take a portion of it, then they would have to pay for it.

Mr. CASSELS—Will the Government say whether the price of it will be remitted?

Sir JOHN MACDONALD—We cannot say that without the authority of Parliament. I think that belongs to the Imperial Government.

Mr. CASSELS—That is the opinion of the Law Officers of the Crown, and if that is the case, it is perfectly clear under the British North America Act, that this Government has no power to deal with it at all. The one follows the other.

Sir JOHN MACDONALD—I think we ought to deal with that, assuming that the land was vested in the Canadian Government.

Mr. HAY—The Credit Valley Railroad are in this position now: they have 1,500 men at work, and if the road cannot be extended down to Bathurst Street, the men will have to be dismissed, and the whole work will have to be stopped.

Sir JOHN MACDONALD—No action of the Government will prevent these legal questions arising.

Mr. HAY—But the gentlemen of the Northern Railway say they are willing, that the Credit Valley Railroad should go down to Bathurst Street—complete their road to that and get their money.

Mr. CASSELS—I don't think the Grand Trunk Railroad would object to that.

Mr. CUMBERLAND—On behalf of my own company, I beg respectfully to say that while I understand no judgment will at present be given, and while from the language you use, license of occupation if granted might be worthless, and might be taken at large risks by the Credit Valley Railroad, I might add my instructions are imperative. We have every desire for peace, and have evinced a most liberal disposition towards the Credit Valley Railroad. We have shown them how to come in, and have invited them to come in over our land under the language used by myself to my Board which was in these words:—"If the present wants of the Northern are satisfied, and there is room to spare, do not let us play the dog in the manger. Why should we not help them to get in?" These are the words I used. We have acted upon that principle—unhappily without results, and we have greatly lamented that we should have been dragged into public discussion on the question, after we have offered the most friendly assistance to the Credit Valley Railway. If it should happen that there is any interference with what we believe to be our rights, and I speak under advice of the highest authorities at the British Bar, then my instructions at any rate are, if we are unfairly forced to it, to fight it out to the highest and last Court.

Sir CHARLES TUPPER—Is it true that the proposition you made by the invitation you gave them to come in involved their obtaining the co-operation of the Grand Trunk Railway, and that when they adopted your suggestion, and went to the Grand Trunk Railway they were told that the only way in which they would co-operate with you and carry out your suggestion so as to put them in a position to avail themselves of your proposition, was to provide they would comply with terms that were impossible.

Mr. CASSELS—No.

Mr. CUMBERLAND—All I can say is that the Northern Railway Company are entirely innocent of any concert in obstacles offered by the Grand Trunk Railway. It would be a mere pretence if we were ourselves to offer to give the Credit Valley Railroad right of way on the understanding that the Grand Trunk Railway would deny it; but we warned our friends of the agreement by which the Grand Trunk Railway is in possession of a certain portion of the land to the south, which would be necessary to the construction of the line that we advised. We said inasmuch as only a portion of that line—from the Diamond Crossing down to Bathurst street is not in possession, and the balance of it from Diamond Crossing to Queen street is in possession of the Grand Trunk Railway we are ready to give you everything we are in possession of ourselves, but you must get the remainder from the Grand Trunk Railway. We offered them everything we could, and we stand by that but we certainly cannot speak for the Grand Trunk Railway Company.

Sir CHARLES TUPPER—Assuming that you give them the means of getting to Bathurst street, which would enable them to reach the City of Toronto and get the bonus to pay their men with, they would be without excuse, but if your position involves their also making arrangements with the Grand Trunk Railway, and the Grand Trunk Railway

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say as a condition to this arrangement, you must agree to do something that is impossible for you to do; something that under your arrangements you are unable to do—it is unreasonable.

Mr. CUMBERLAND—I speak for the Northern Railway Company, and I say we are not responsible for that. I am glad to have an opportunity of saying as I have done to-day, and as I do now, that we never proposed to do anything relating to traffic, and the only conditions which we imposed are perfectly reasonable—to wit: if by our grace you occupy this location which has cost us a very large sum of money for improvements, a sum which we must ascertain, you must pay whatever is a reasonable proportion of it. Is not that fair?

Sir CHARLES TUPPER—It is fair.

Mr. CUMBERLAND—We have made large earthworks, made road-beds and fences. Now, surely, it is not an unreasonable condition to make that they shall pay their proportion of that. That was the only condition we made, with the exception of one other—if they accept the location as we devised it, and as Mr. Laidlaw concurred in it—that there shall be an end of it; we ask them to forego any except one location. Now surely that is a reasonable proposition. I do hope that the impression left upon the minds of Ministers to-day has been, that the Northern Railway Company at any rate have never offered the slightest opposition, and that they have been brought into public odium unnecessarily.

Mr. CASSELS—The Grand Trunk Railway has allowed them to come to Bathurst street also. If they come there they are met with the round house block, which cannot be interfered with by this Committee or any law whatever. They have no right to get beyond Bathurst street without litigation.

Sir CHARLES TUPPER—They get to Bathurst street without conditions?

Mr. CASSELS—That is without conditions, but here is the point: After getting to Bathurst street Mr. Laidlaw wanted to get from there to the Union Station over the Grand Trunk lines. Mr. Hickson suggests if they do that the servants of the Grand Trunk Station must be employed by both lines. That would ease the Grand Trunk Railway as well as the Credit Valley Railway. He also suggests that in eastern bound freight—no western bound freight—there should be no competition.

Sir CHARLES TUPPER—Is that in relation to the arrangements proposed after you get to Bathurst street?

Mr. CASSELS—Yes.

Sir CHARLES TUPPER—Now, it appears to me if the Grand Trunk Railway and Northern Railway agree to the Credit Valley Railway getting down to Bathurst street, it will remove all present difficulties.

Mr. CASSELS—I think I have a copy of a letter from Mr. Hickson in which he states that to Bathurst street there is no difficulty.

Hon. Mr. WELLS—That is the first I have heard of it.

Mr. CASSELS—Mr. Hickson, acting for the Grand Trunk Railway, made certain suggestions. It is idle to say that because these suggestion do not meet the approval of one railway they are immediately to take other proceedings. As far as Bathurst street there is no trouble.

Mr. CUMBERLAND—I would venture to suggest that, if an arrangement is made to Bathurst street, it should be made to Brock street. There is plenty of room to that point for the Credit Valley Railway, if it succeeds, as I trust it may, in getting right of way. Then the question with the Grand Trunk Railway arises.

Hon. Mr. WELLS—But we do not know that the Grand Trunk Railway or Great Western Railway will shift their tracks.

Mr. CUMBERLAND—I do not care for that, because it is a general right of way which we gave up, and which the Government of the day made us give up in order to secure themselves. What I presume to offer is this: If you get to Bathurst street you may as well get to Brock street, and then the question with the Grand Trunk Railway arises.

Sir JOHN MACDONALD—I think we have come very near a solution of the difficulty.

Mr. CUMBERLAND—We shall welcome any engineer you like to send to look the whole thing over.

Hon. Mr. MACDOUGALL—If ten days would be the most convenient time for an adjournment, why not make some progress? Let a writing be drawn up now by which the other companies agree to let us get down to Bathurst street.

Mr. CAMERON—Let it go to Brock street, and then all questions between the Credit Valley Railway and the Northern will be settled.

Sir CHARLES TUPPER—Does the 100 feet strip go to Brock street?

Mr. CUMBERLAND—Yes.

Mr. ELLIOT—I think the Credit Valley Railway will be willing, if all the other companies concur, to allow the road to run on the line proposed by Mr. Cumberland, leaving the damages to be assessed by the Judges of the Superior Court, or by some one appointed by the Privy Council.

Mr. CUMBERLAND—I would not agree to that. I want some money down, or some security for it.

Mr. ELLIOT—We will put good security in the hands of the Government for the money.

Mr. HAY suggested that three engineers, Messrs Fleming, Shanly, and Trudeau, should be appointed at once to settle the matter.

Mr. CASSELS—I would suggest, before an appointment is made, that, suppose we are not to agree, what are we to do? I cannot say how far Mr. Laidlaw will go. He goes off like firecrackers. It is perfectly understood and plain from the correspondence that it is in the interest of the Grand Trunk Railway to have this road in Toronto, but it is much better to have this settled without reference to what we will do outside.

Sir CHARLES TUPPER—We hope that by the day we meet you will have arranged among yourselves, and I really cannot see why you cannot do so. All difficulties will be removed to Brock street, which is really the pressing matter; then the Railway Committee will take up the question of crossings. In the meantime we will have sent an engineer connected with the Department to make a report on the subject and on the plan as left with us.

Sir JOHN MACDONALD—The Committee will send an engineer in whom the Department has confidence to lay out a reasonable line as far as Brock Street for the Credit Valley Railway with as little inconvenience as possible to the others.

Mr. CASSELS—All three lines are at one with regard to the track as far as Brock street.

Hon. Mr. POPE—So far as Brock street is concerned there are no conditions?

Mr. CASSELS—I do not bind my company to anything of that kind, but I think not. It is a matter of arrangement.

Hon. Mr. POPE—You are not sure there are no conditions?

Mr. CASSELS—No.

Hon. Mr. POPE—Some gentlemen seem to think you said there was one point to which you said there were no conditions.

Mr. CASSELS—There are no conditions to Bathurst street, if they make an arrangement. There is no question about the traffic.

Mr. CUMBERLAND—There must be one condition. The object of the Credit Valley Railway is to get from Queen street into the city. We have got, with the Grand Trunk Railway, the right to the 100 feet and claim that it is ours. The Northern Railway say "we give you free passage through, but we cannot admit you to local rights for sidings, &c. We reserve the sidings rights, I do hope the engineer will be instructed to make his report as far east as Brock street."

Mr. HAY—If we give Mr. Cumberland security for the money, would we not be allowed to commence to-morrow to lay our track down to Bathurst street?

Sir JOHN MACDONALD—That is a matter which we cannot decide.

Mr. HAY—The men will have to be all discharged unless we can find employment for them.

Hon. Mr. MACDOUGALL—As you, Sir John, are about leaving the country, it would be as well to consider the question of title during the adjournment. If you can give us a license of occupation we will take the risk of making good our case. We would like that the Government, in the absence of yourself and some other members of the Cabinet, should be in a position to determine the question whether they will assume that they have some rights in the 100 feet strip, and give us a license of occupation for what it may be worth.

Sir JOHN MACDONALD—That is a matter for the Governor-in-Council.

The meeting then adjourned until Thursday, July 3rd.

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